

**COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING & ZONING DIVISION**

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# **Board of Zoning Appeals Staff Reports 2021**

**Wednesday February 17, 2021  
7:00 P.M.  
Virtual**

**Agenda  
Board of Zoning Appeals  
Springfield, Ohio  
Wednesday, February 17, 2021  
7:00 P.M.**

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**1. Call to Order**

**2. Roll Call**

**3. Approval of January 20, 2021 Meeting Minutes**

ACTION

**4. Swearing In of Witnesses**

ACTION

**5. Case #21-A-06**

DISCUSSION  
& ACTION

Request from Jay Crawford for a conditional use permit for a  
daycare center at 2043 Memorial Dr. in a RS-5, Low Density,  
Single-Family Residence District

**6. Case #21-A-07**

DISCUSSION  
& ACTION

Request from Collin Link for a variance from Chapter 1158.02(a)  
to not install new trees along the right of way at 2105 Sheridan Ave.  
in a M-1, General Manufacturing District

**7. Board Comments**

DISCUSSION

**8. Staff Comments**

DISCUSSION

**9. Adjourn – Next meeting is March 15, 2021**

ACTION

## 2021 Board of Zoning Appeals Call to Order: Roll Call

<b>Name</b>	<b>Term Expiration</b>
Mark Brown	03/13/2021
James Burkhardt	03/31/2021
Rhonda Zimmers	01/06/2022
Dori Gaier	05/11/2022
Denise Williams	08/02/2022
Charles Harris	03/26/2022
Matthew Ryan	08/11/2023
<b>Quorum - 4</b>	

**BOARD OF ZONING APPEALS**

**Springfield, Ohio**

**Monday, December 21, 2020**

**7:00 P.M.**

**Virtual Meeting**

**Meeting Minutes**

**(Summary format)**

Mr. Ryan called the meeting to order at 7:00 P.M.

MEMBERS PRESENT: Mr. Charles Harris, Ms. Rhonda Zimmers, Mr. James Burkhardt, Mr. Mathew Ryan, and Mr. Mark Brown,

MEMBERS ABSENT: Ms. Denise Williams and Ms. Dori Gaier.

OTHERS PRESENT: Stephen Thompson, Planning, Zoning, and Code Administrator  
Cheyenne Pinkerman, Community Development Specialist.

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**Subject: Approval of October 19, 2020 Meeting Minutes**

Mr. Ryan asked if the Board had any corrections or additions to add to the minutes.

Ms. Zimmers made a motion to approve the minutes. Seconded by Mr. Burkhardt.

Hearing none, Mr. Ryan asked the Board members to voice yes if they were in favor of approving the minutes. Members voiced yes.

Mr. Ryan asked if any opposed to voice nay. Hearing none, Mr. Ryan stated the minutes stand approved.

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**Case #20-A-24 Request from Carla Grist for a variance from Chapter 1156.01 to construct a privacy fence over 2.5 feet tall in a front yard at 1029 S Fountain Ave. in a RM-12, Low-Density, Multi-Family Residence District.**

Mr. Ryan stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant seeks a variance to construct a six-foot-tall, wood privacy fence in a front yard. Corner lots, such as the subject parcel, have front yards along each street. The fence will be located in what is traditionally considered a front yard along W Grand Avenue. It will not be closer to S Fountain Avenue than the back of the house.

#### ANALYSIS for Variance:

The Board may grant a variance only where there exists a “practical difficulty” as defined by the courts in Ohio in established case law. The Ohio Supreme Court’s decision in *Kisil v. City of Sandusky*, (1984) 12 Ohio State 3d 30, is a land mark decision in establishing common law governing variances by distinguishing between “use” and “area variances.” Area variances involve an exception from such requirements as yard, lot, and height standards. The Supreme Court established that a practical difficulty must exist before an area variance can be granted.

Then subsequent to this case, in *Duncan v. Village of Middlefield*, (1986) 23 Ohio 3d 83, the Ohio Supreme Court more fully explained the practical difficulty standards. The factors to be considered and weighed in determining whether a property owner seeking a variance has encountered a practical difficulty in the use of his/her property include, but are not limited to:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

Staff Comment: Yes.

2. Whether the variance is substantial;

Staff Comment: No, the fence is located along what is traditionally considered a side yard.

3. Whether the essential character of the neighborhood will be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

Staff Comment: No. The fence material and height was approved by the Historic Landmarks Commission.

4. Whether the variance would adversely affect the delivery of government services (e.g., water, sewer);

Staff Comment: No.

5. Whether the property owner purchased the property with the knowledge of the zoning restrictions;

Staff Comment: No.

6. Whether the property owner's predicament can be obviated through some method other than a variance; or

Staff Comment: No.

7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Staff Comment: Yes.

#### RETURNED REPORTS FROM STAFF:

Service/Engineering Department: Recommend approval

Building Inspections: Recommend approval;

Fire Department: Recommend approval

City Manager's Office: Recommend approval

Planning and Zoning: Recommend approval

#### STAFF RECOMMENDATION:

Approval of the variance.

Mr. Ryan asked if the board had any questions for Mr. Thompson.

Ms. Zimmers asked if there had been any complaints.

Mr. Thompson stated he received no complaints.

Mr. Ryan asked if the board had any further questioned for Mr. Thompson. Hearing none, Mr. Ryan asked if the applicant wished to speak.

Ms. Carla Grist 1029 South Fountain Avenue. Springfield, Ohio 45506.

Ms. Grist explained the city recognizes the yard as a front yard. Ms. Grist explained that she would like to install the fence for safety and privacy.

Mr. Ryan asked if there were any further questions or if anyone else wished to speak. Hearing none, Mr. Ryan asked for a motion to close the public hearing.

**MOTION:** Mr. Burkhardt made a motion to close the public hearing. Seconded by Mr. Brown. Approval by voice vote.

Mr. Ryan stated that the public hearing was now closed and asked for a motion to approve Case #20-A-24.

**MOTION:** Motion by Ms. Zimmers to approve a variance from Chapter 1156.01 to construct a privacy fence over 2.5 feet tall in a front yard at 1029 S Fountain Ave. in a RM-12, Low-Density, Multi-Family Residence District. Seconded by Mr. Brown.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. There were no complaints.
2. The Springfield Historic Landmarks Commission approved the fence.
3. It is appropriate for the lot.

**YEAS:** Mr. Harris, Mr. Burkhardt, Mr. Brown, Ms. Zimmers, and Mr. Ryan.

**NAYS:** None.

Motion approved 5 to 0.

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**Case #20-A-25 Request from John Hart for a variance from Chapter 1135.27(b) to allow for a cargo container as the primary use on a property at 237 Selma Rd. in a CC-2, Community Commercial District.**

Mr. Ryan stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant seeks a variance to keep a cargo container on a parcel without another structure. Chapter 1135.27 states cargo containers in commercial districts cannot exceed 7% of the floor area of existing structures. Currently, the cargo container is the only structure on-site. The container is used to store roofing material.

**ANALYSIS for Variance:**

The Board may grant a variance only where there exists a “practical difficulty” as defined by the courts in Ohio in established case law. The Ohio Supreme Court’s decision in Kisil v. City of

Sandusky, (1984) 12 Ohio State 3d 30, is a land mark decision in establishing common law governing variances by distinguishing between “use” and “area variances.” Area variances involve an exception from such requirements as yard, lot, and height standards. The Supreme Court established that a practical difficulty must exist before an area variance can be granted.

Then subsequent to this case, in Duncan v. Village of Middlefield, (1986) 23 Ohio 3d 83, the Ohio Supreme Court more fully explained the practical difficulty standards. The factors to be considered and weighed in determining whether a property owner seeking a variance has encountered a practical difficulty in the use of his/her property include, but are not limited to:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

*Staff Comment: Yes.*

1. Whether the variance is substantial;

*Staff Comment: Yes.*

1. Whether the essential character of the neighborhood will be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

*Staff Comment: No.*

1. Whether the variance would adversely affect the delivery of government services (e.g., water, sewer);

*Staff Comment: No.*

1. Whether the property owner purchased the property with the knowledge of the zoning restrictions;

*Staff Comment: No.*

1. Whether the property owner’s predicament can be obviated through some method other than a variance; or

*Staff Comment: No.*

1. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

*Staff Comment: Yes.*

**RETURNED REPORTS FROM STAFF:**

Engineering Department: Recommend approval

Building Inspections: Recommend denial; need permits and must meet the State of Ohio approved manufacturer's list.

Fire Department: Recommend approval

City Manager's Office: Recommend approval

Planning and Zoning: Recommend approval

**STAFF RECOMMENDATION:**

Approval of the variance.

Mr. Ryan asked for Mr. Thompson to repeat the building department recommendation.

Mr. Thompson explained the container needed permits and must meet the State of Ohio approved manufacturer list. Mr. Thompson explained in the State of Ohio, cargo containers can be tricky due to the country of origin. Mr. Thompson stated some containers that come from different country, the flooring is made out of hazardous chemicals and the Ohio Board of Building Standards has stated building permits could not be issued. Mr. Thompson explained the applicant would need to work with the building department.

Ms. Zimmers questioned if the board approved this, they would still have to go through the building department.

Mr. Thompson stated that was correct.

Ms. Zimmers asked if the concern was more about the material or about the structure.

Mr. Thompson stated the material would need to be approved.

Mr. Ryan questioned how long the container had been on site.

Mr. Thompson stated he was unsure and explained a citizen made a complaint about multiple locations that have cargo containers on site.

Mr. Ryan asked if the variance was because there was no permanent structure on site and the conditional use was needed regardless if there was a permanent structure.

Mr. Thompson stated that was correct. Mr. Thompson explained the conditional use and variance would typically come before the container was put on the property, however, the cargo container was on the property before the applicant applied.

Ms. Zimmers questioned if there would be any screening.

Mr. Thompson stated the board could put that in the motion.

Mr. Burkhardt asked if there was a container across the street at the tire place.

Mr. Thompson stated that was the initial complaint and the owner had put in his application for January.

Mr. Ryan asked if the applicant wished to speak.

John Michael Hart, 2850 East Possum Road. Springfield, Ohio.

Mr. Hart stated the container went in around 30 months ago. Mr. Hart explained they were not opposed to painting or screening the container, they had no complaints. Mr. Hart stated the tire center across the street was an eye sore. Mr. Hart explained the container was all steel and shouldn't have any issues being approved but would go through the process.

Mr. Ryan asked if there was anyone else that wished to speak. Hearing none, Mr. Ryan asked for a motion to close the public hearing.

**MOTION:** Ms. Zimmers made a motion to close the public hearing. Seconded by Mr. Brown. Approval by voice vote.

Mr. Ryan stated that the public hearing was now closed and asked for a motion to approve Case #20-A-25.

**MOTION:** Motion by Ms. Zimmers to approve a variance to allow for a cargo container at 237 Selma Rd. in a CC-2, Community Commercial District. Seconded by Mr. Brown.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. There were no objections.
2. The applicant will screen and paint the container.
3. The lot is otherwise vacant.

**YEAS:** Mr. Harris, Mr. Burkhardt, Mr. Brown, Ms. Zimmers, and Mr. Ryan.

**NAYS:** None.

Motion approved 5 to 0.

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**Case #20-A-26 Request from John Hart for a conditional use to allow for a cargo container at 237 Selma Rd. in a CC-2, Community Commercial District.**

Mr. Ryan stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant seeks a conditional use permit to keep a cargo container on a parcel without another structure. Chapter 1135.27 states cargo containers in commercial districts require a conditional use permit. Currently, the cargo container is the only structure on-site. The container is used to store roofing material.

**ANALYSIS for Conditional Use:**

In considering an application for a conditional use, the Board shall give due regard to the nature and condition of all adjacent uses and structures, and the consistency therewith of the proposed use and development. Before authorizing a use as a conditional use, the Board shall review the facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that the proposed conditional use at the proposed location:

- (1) Would not be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust and dirt, cinders, noxious gases, glare and heat, fire and safety hazards, sewage wastes and pollution, transportation and traffic, aesthetic and psychological effects. The Board shall use and give recognition to those performance standards which are available in model codes or ordinances, or have been developed by planning, manufacturing, health, architectural and engineering organizations, and can be applied to the proposed use, to assist it in reaching a fair and objective decision;

***Staff Comment:*** *It would not.*

- (2) Is in fact a conditional use as established under the provisions of this Springfield Zoning Code as eligible to be permitted in the district involved;

***Staff Comment:*** *Yes.*

- (3) Will be harmonious with and in accordance with the general objectives, or with any specific objective of this Springfield Zoning Code;

***Staff Comment:*** *Yes.*

- (4) Will be designed, constructed, operated and maintained as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;

*Staff Comment: The container needs permits from the building inspections division and must meet the State of Ohio approved manufacturer's list.*

- (5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

*Staff Comment: Yes.*

- (6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

*Staff Comment: It will not.*

- (7) Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. Upon authorizing a conditional use, the Board shall impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this Springfield Zoning Code for the particular conditional use, as the Board may deem necessary for the protection of adjacent properties and the public interest.

*Staff Comment: Yes.*

**RETURNED REPORTS FROM STAFF:**

Service/Engineering Department: Recommend approval

Building Inspections: Recommend denial; need permits and must meet the State of Ohio approved manufacturer's list.

Fire Department: Recommend approval

City Manager's Office: Recommend approval

Planning and Zoning: Recommend approval

**STAFF RECOMMENDATION:**

Approval of the conditional use permit.

Mr. Ryan asked if the applicant had any questions.

Mr. Hart asked if slats in the fence would be appropriate for screening, as well as some shrubbery.

The board agreed, slates in the fencing would be appropriate.

Mr. Ryan asked if there was anyone else that wished to speak. Hearing none, Mr. Ryan asked for a motion to close the public hearing.

**MOTION:** Ms. Zimmers made a motion to close the public hearing. Seconded by Mr. Brown. Approval by voice vote.

Mr. Ryan stated that the public hearing was now closed and asked for a motion to approve Case #20-A-26.

**MOTION:** Motion by Ms. Zimmers to approve a conditional use to allow for a cargo container at 237 Selma Rd. in a CC-2, Community Commercial District. Seconded by Mr. Brown.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. There is no oppositions.
2. The applicant will screen and paint the container.
3. Applicant should add shrubbery or slats.

**YEAS:** Mr. Harris, Mr. Burkhardt, Mr. Brown, Ms. Zimmers, and Mr. Ryan.

**NAYS:** None.

Motion approved 5 to 0.

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**Case #20-A-27 Request from Clay Chester for a variance from Chapter 1150.01 to construct a house in a front yard setback at 736 E Northern Ave. in a RS-8, Medium-Density, Single-Family Residence District.**

Mr. Ryan stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant seeks a variance to construct a new house within a front yard setback. The house complies with the setback requirement on E Northern Ave, but not along the side street. Corner lots, such as the subject parcel, have front yards along each street. The setback will not appear

out of character for the area. It will be approximately 5 ½ feet from the property line along Winton Place.

### **ANALYSIS for Variance:**

The Board may grant a variance only where there exists a “practical difficulty” as defined by the courts in Ohio in established case law. The Ohio Supreme Court’s decision in Kisil v. City of Sandusky, (1984) 12 Ohio State 3d 30, is a land mark decision in establishing common law governing variances by distinguishing between “use” and “area variances.” Area variances involve an exception from such requirements as yard, lot, and height standards. The Supreme Court established that a practical difficulty must exist before an area variance can be granted.

Then subsequent to this case, in Duncan v. Village of Middlefield, (1986) 23 Ohio 3d 83, the Ohio Supreme Court more fully explained the practical difficulty standards. The factors to be considered and weighed in determining whether a property owner seeking a variance has encountered a practical difficulty in the use of his/her property include, but are not limited to:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

*Staff Comment: No. It would be difficult to build a house on this parcel without the variance.*

1. Whether the variance is substantial;

*Staff Comment: No. The house complies with the front yard setback on E Northern Ave. The variance is for the setback in what is traditionally considered a side yard.*

1. Whether the essential character of the neighborhood will be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

*Staff Comment: No.*

1. Whether the variance would adversely affect the delivery of government services (e.g., water, sewer);

*Staff Comment: No.*

1. Whether the property owner purchased the property with the knowledge of the zoning restrictions;

*Staff Comment: No.*

1. Whether the property owner's predicament can be obviated through some method other than a variance; or

*Staff Comment: No.*

1. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

*Staff Comment: Yes.*

**RETURNED REPORTS FROM STAFF:**

Service/Engineering Department: Recommend approval

Building Inspections: Recommend approval

Fire Department: Recommend approval

City Manager's Office: Recommend approval

Planning and Zoning: Recommend approval

**STAFF RECOMMENDATION:**

Approval of the variance.

Mr. Ryan asked if the board had any questions for Mr. Thompson.

Mr. Brown asked if the applicant owned the property.

Mr. Thompson stated that was correct.

Ms. Zimmers asked if all four parcels would need approval.

Mr. Thompson stated to corner parcels are the only two that do not meet the setback requirements.

Mr. Ryan asked if the applicant wished to speak. Hearing none, Mr. Ryan asked if there was anyone else that wished to speak.

Don and Julie Zimmer, 808 East Northern Avenue. Springfield, Ohio.

Mr. Zimmer asked if the variance was for 736 East Northern.

Mr. Thompson stated the streets were mislabeled on the map and the variance was for the address 736 East Northern.

Mr. Ryan asked if there was anyone else that wished to speak. Hearing none, Mr. Ryan asked for a motion to close the public hearing.

**MOTION:** Mr. Burkhardt made a motion to close the public hearing. Seconded by Mr. Harris. Approval by voice vote.

Mr. Ryan stated that the public hearing was now closed and asked for a motion to approve Case #20-A-27.

**MOTION:** Motion by Mr. Brown for a variance from Chapter 1150.01 to construct a house in a front yard setback at 736 E Northern Ave. in a RS-8, Medium-Density, Single-Family Residence District. Seconded by Ms. Zimmers.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. There were no objections.
2. The setback would not be out of character for the neighborhood.
3. New housing is needed in Springfield.

**YEAS:** Mr. Harris, Mr. Burkhardt, Mr. Brown, Ms. Zimmers, and Mr. Ryan.

**NAYS:** None.

Motion approved 5 to 0.

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**Case #20-A-28 Request from Clay Chester for a variance from Chapter 1150.01 to construct a house in a front yard setback at 720 E Northern Ave. in a RS-8, Medium-Density, Single-Family Residence District.**

Mr. Ryan stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant seeks a variance to construct a new house within a front yard setback. The house complies with the setback requirement on E Northern Ave, but not along the side street. Corner

lots, such as the subject parcel, have front yards along each street. The setback will not appear out of character for the area. It will be approximately 9 feet 4 inches from the property line along Rodgers Drive.

### **ANALYSIS for Variance:**

The Board may grant a variance only where there exists a “practical difficulty” as defined by the courts in Ohio in established case law. The Ohio Supreme Court’s decision in Kisil v. City of Sandusky, (1984) 12 Ohio State 3d 30, is a land mark decision in establishing common law governing variances by distinguishing between “use” and “area variances.” Area variances involve an exception from such requirements as yard, lot, and height standards. The Supreme Court established that a practical difficulty must exist before an area variance can be granted.

Then subsequent to this case, in Duncan v. Village of Middlefield, (1986) 23 Ohio 3d 83, the Ohio Supreme Court more fully explained the practical difficulty standards. The factors to be considered and weighed in determining whether a property owner seeking a variance has encountered a practical difficulty in the use of his/her property include, but are not limited to:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

***Staff Comment:*** Yes.

1. Whether the variance is substantial;

***Staff Comment:*** Yes, however, the setbacks requirements would make the sign difficult to see from the road.

1. Whether the essential character of the neighborhood will be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

***Staff Comment:*** No.

1. Whether the variance would adversely affect the delivery of government services (e.g., water, sewer);

***Staff Comment:*** Final sign placement will be approved by the Service Department.

1. Whether the property owner purchased the property with the knowledge of the zoning restrictions;

*Staff Comment: Unknown.*

1. Whether the property owner's predicament can be obviated through some method other than a variance; or

*Staff Comment: No.*

1. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

*Staff Comment: Yes.*

**RETURNED REPORTS FROM STAFF:**

Service/Engineering Department: Recommend approval

Building Inspections: Recommend approval; permits will be required

Fire Department: Recommend approval

City Manager's Office: Recommend approval

Planning and Zoning: Recommend approval

**STAFF RECOMMENDATION:**

Approval of the variance.

Mr. Ryan asked if the board had any questions for Mr. Thompson. Hearing none, Mr. Ryan asked if the applicant wished to speak. Hearing none, Mr. Ryan asked if there was anyone else that wished to speak. Hearing none, Mr. Ryan asked for a motion to close the public hearing.

**MOTION:** Mr. Burkhardt made a motion to close the public hearing. Seconded by Mr. Harris. Approval by voice vote.

Mr. Ryan stated that the public hearing was now closed and asked for a motion to approve Case #20-A-28.

**MOTION:** Motion by Mr. Brown for a variance from Chapter 1150.01 to construct a house in a front yard setback at 736 E Northern Ave. in a RS-8, Medium-Density, Single-Family Residence District. Seconded by Ms. Zimmers.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. There were no objections.
2. The setback would not be out of character for the neighborhood.
3. New housing is needed in Springfield.

**YEAS:** Mr. Harris, Mr. Burkhardt, Mr. Brown, Ms. Zimmers, and Mr. Ryan.

**NAYS:** None.

Motion approved 5 to 0.

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**Case #20-A-29 Request from New Covenant Temple Church of God for a conditional use permit for a community center at 1735 Clay St. in a RS-8, Medium-Density, Single-Family Residence District.**

Mr. Ryan stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant seeks a conditional use permit to start a community center in the structure. It is owned by the New Covenant Temple Church of God in Christ. The center will be used to distribute items to those in the community in need and other church related community functions.

**ANALYSIS for Conditional Use:**

In considering an application for a conditional use, the Board shall give due regard to the nature and condition of all adjacent uses and structures, and the consistency therewith of the proposed use and development. Before authorizing a use as a conditional use, the Board shall review the facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that the proposed conditional use at the proposed location:

- (1) Would not be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust and dirt, cinders, noxious gases, glare and heat, fire and safety hazards, sewage wastes and pollution, transportation and traffic, aesthetic and psychological effects. The Board shall use and give recognition to those performance standards which are available in model codes or ordinances, or have been developed by planning, manufacturing, health, architectural and engineering organizations, and can be applied to the proposed use, to assist it in reaching a fair and objective decision;

***Staff Comment:*** *It would not.*

(2) Is in fact a conditional use as established under the provisions of this Springfield Zoning Code as eligible to be permitted in the district involved;

*Staff Comment: Yes.*

(3) Will be harmonious with and in accordance with the general objectives, or with any specific objective of this Springfield Zoning Code;

*Staff Comment: Yes.*

(4) Will be designed, constructed, operated and maintained as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;

*Staff Comment: Yes.*

(5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

*Staff Comment: Yes.*

(6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

*Staff Comment: It will not.*

(7) Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. Upon authorizing a conditional use, the Board shall impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this Springfield Zoning Code for the particular conditional use, as the Board may deem necessary for the protection of adjacent properties and the public interest.

*Staff Comment: Yes.*

**RETURNED REPORTS FROM STAFF:**

Service Department: Recommend approval

Building Inspections: Recommend approval; permits and certificate of occupancy will be required

Fire Department: Recommend approval

City Manager's Office: Recommend approval

Planning and Zoning: Recommend approval

**STAFF RECOMMENDATION:**

Approval of the conditional use permit.

Mr. Ryan asked if the board had any questions for Mr. Thompson. Hearing none, Mr. Ryan asked if the applicant wished to speak.

Pastor Willard D. DeArmond, New Covenant Temple Church of God in Christ, 1757 Clay Street. Springfield, Ohio 45505.

Pastor DeArmond explained the house had never been abandoned but used by the church. Pastor DeArmond explained the house had windows busted out and they planned to put it to more use and fix the structure up.

Mr. Ryan asked if the board had any questions for the applicant. Hearing none, Mr. Ryan asked if there was anyone else that wished to speak. Hearing none, Mr. Ryan asked for a motion to close the public hearing.

**MOTION:** Mr. Brown made a motion to close the public hearing. Seconded by Mr. Harris. Approval by voice vote.

Mr. Ryan stated that the public hearing was now closed and asked for a motion to approve Case #20-A-29.

**MOTION:** Motion by Ms. Zimmers for a conditional use permit for a community center at 1735 Clay St. in a RS-8, Medium-Density, Single-Family Residence District. Seconded by Mr. Harris.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. There were no objections.
2. It serves a need in the community.
3. It is already used by the church in a similar manner.

**YEAS:** Mr. Harris, Mr. Burkhardt, Mr. Brown, Ms. Zimmers, and Mr. Ryan.

**NAYS:** None.

Motion approved 7 to 0.

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**Case #20-A-30 Request from Alex Robinson for a conditional use permit for an automotive use at 902 S Yellow Springs St. in a M-1, General Manufacturing District.**

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Mr. Ryan stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant seeks a conditional use permit to use the parcel for additional vehicle inventory for Robinson Auto Sales, located at 1831 S Yellow Springs St.

During the Engaged Neighborhood planning process, this parcel has been identified through conversations our consultants had with residents as an eyesore for some time. Residents want something to happen on this parcel. An auto sales lot would not be the highest and best use for the parcel.

Revitalizing the S Yellow Springs Street corridor is an important objective for the City of Springfield. It is vital that properties are developed in ways that add to the corridor and to the community overall, bringing jobs and spurring future development on neighboring parcels.

**ANALYSIS for Conditional Use:**

In considering an application for a conditional use, the Board shall give due regard to the nature and condition of all adjacent uses and structures, and the consistency therewith of the proposed use and development. Before authorizing a use as a conditional use, the Board shall review the facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that the proposed conditional use at the proposed location:

(1) Would not be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust and dirt, cinders, noxious gases, glare and heat, fire and safety hazards, sewage wastes and pollution, transportation and traffic, aesthetic and psychological effects. The Board shall use and give recognition to those performance standards which are available in model codes or ordinances, or have been developed by planning, manufacturing, health, architectural and engineering organizations, and can be applied to the proposed use, to assist it in reaching a fair and objective decision;

***Staff Comment:*** *It would not.*

(2) Is in fact a conditional use as established under the provisions of this Springfield Zoning Code as eligible to be permitted in the district involved;

***Staff Comment:*** *Yes.*

(3) Will be harmonious with and in accordance with the general objectives, or with any specific objective of this Springfield Zoning Code;

***Staff Comment:*** Yes.

(4) Will be designed, constructed, operated and maintained as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;

***Staff Comment:*** Yes.

(5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

***Staff Comment:*** Yes.

(6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

***Staff Comment:*** It will not.

(7) Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. Upon authorizing a conditional use, the Board shall impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this Springfield Zoning Code for the particular conditional use, as the Board may deem necessary for the protection of adjacent properties and the public interest.

***Staff Comment:*** Yes.

**RETURNED REPORTS FROM STAFF:**

Service Department: Recommend approval

Building Inspections: Recommend approval; sign permit required

Fire Department: Recommend approval

City Manager's Office: Recommend denial; as the City/community continues to invest in S Yellow Springs St. and the surrounding area, a car lot does not fit into the goals and objectives set forth (see Engaged Neighborhood Plan).

Planning and Zoning: Recommend denial; this parcel has been identified for investment as a part of the Engaged Neighborhood Plan to revitalize the S Yellow Springs Street corridor. There are several used car dealerships already in the City. A car lot on this parcel would not be the highest and best use nor what community members have stated they want to see in the area.

**STAFF RECOMMENDATION:**

Denial of the conditional use permit.

Mr. Ryan asked if the board had any questions for Mr. Thompson.

Mr. Burkhardt asked how much land was on the property.

Mr. Thompson stated the overall site was 3.1 acres. Mr. Thompson explained the applicant stated he only planned to use the front three parcels.

Mr. Harris asked if the applicant planned to only sell vehicles or would it be for storage.

Mr. Thompson explained there would be an overflow lot for his other business.

Mr. Ryan asked if there had been any complaints from the neighbors.

Mr. Thompson stated there had been no complaints received.

Ms. Zimmer asked if the city had specific plans for the lot or any of the other nearby lots.

Mr. Thompson stated there were no specific plans but the lot is part of the engaged neighborhood plan area. Mr. Thompson explained the city was trying to get feedback from the residents of the area to see what they want to happen with the site. Mr. Thompson explained the city was still in the early stages of developing the plan. Mr. Thompson explained they had received feedback of wanting something in the area that promotes development. Nothing had been presented or outlined.

Ms. Zimmers questioned if the lot would be mainly an overflow lot for the existing business.

Mr. Thompson stated initially it's for storage but the applicant had plans for the future.

Mr. Ryan asked if the applicant wished to speak.

Mr. Alex Robinson., 327 North Jackson Street. Springfield, Ohio.

Mr. Robinson explained the different businesses he owned. Mr. Robinson explained he had been interested in the property for some time and planned to close by the end of December. Mr. Robinson stated he had a dream of building a sports complex over two to three years. Mr.

Robinson explained he would use it for an overflow for his existing auto sales business temporarily. Mr. Robinson explained he had big plans for the property but need the conditional use for the time being.

Mr. Ryan asked the board if they had any questions for the applicant. Hearing none, Mr. Ryan asked if there was anyone else that wished to speak.

Ms. Janice Strickland, 620 West Liberty Street. Springfield, Ohio.

Ms. Strickland stated she had lived in the neighborhood for over fifty years. Ms. Strickland stated she was concerned about traffic and the upkeep of the property. Ms. Strickland asked if the sports complex would be built in three years.

Mr. Robinson stated that was his plan and dream. Mr. Robinson explained the area does not have a lot for the kids in the area. Mr. Robinson explained had had increased the property values of his other locations and takes pride in his neighborhood. Mr. Robinson stated he would like to brighten up the area to deter crime and he would like to create jobs in the neighborhood.

Mr. Ryan asked if the board had any further questions. Hearing none, Mr. Ryan asked for a motion.

**MOTION:** Mr. Brown made a motion to close the public hearing. Seconded by Mr. Harris. Approval by voice vote.

Mr. Ryan stated that the public hearing was now closed and asked for a motion to approve Case #20-A-30.

**MOTION:** Motion by Ms. Zimmers to approve a conditional use permit for an automotive use at 902 S Yellow Springs St. in a M-1, General Manufacturing District. Seconded by Mr. Harris.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. There were no objections from the neighborhood.
2. A car lot is appropriate for the location.
3. The applicant has future plans other than a car lot.

**YEAS:** Mr. Harris, Mr. Burkhardt, Mr. Brown, Ms. Zimmers, and Mr. Ryan.

**NAYS:** None.

Motion approved 5 to 0.

**Case #20-A-31 Request from Timothy Rigel for a conditional use permit for a commercial recreational use (bingo hall) at 2205 Park Rd. in a CC2, Community Commercial District.**

Mr. Ryan stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant seeks a conditional use permit for a commercial recreational use to start a bingo hall. The building is currently vacant, but was most recently a bard and was formerly a restaurant and banquet hall.

**ANALYSIS for Conditional Use:**

In considering an application for a conditional use, the Board shall give due regard to the nature and condition of all adjacent uses and structures, and the consistency therewith of the proposed use and development. Before authorizing a use as a conditional use, the Board shall review the facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that the proposed conditional use at the proposed location:

- (1) Would not be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust and dirt, cinders, noxious gases, glare and heat, fire and safety hazards, sewage wastes and pollution, transportation and traffic, aesthetic and psychological effects. The Board shall use and give recognition to those performance standards which are available in model codes or ordinances, or have been developed by planning, manufacturing, health, architectural and engineering organizations, and can be applied to the proposed use, to assist it in reaching a fair and objective decision;

*Staff Comment: It would not.*

- (2) Is in fact a conditional use as established under the provisions of this Springfield Zoning Code as eligible to be permitted in the district involved;

*Staff Comment: Yes.*

- (3) Will be harmonious with and in accordance with the general objectives, or with any specific objective of this Springfield Zoning Code;

*Staff Comment: Yes.*

- (4) Will be designed, constructed, operated and maintained as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;

*Staff Comment: Yes. It is already built.*

- (5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

*Staff Comment: Yes.*

- (6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

*Staff Comment: It will not.*

- (7) Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. Upon authorizing a conditional use, the Board shall impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this Springfield Zoning Code for the particular conditional use, as the Board may deem necessary for the protection of adjacent properties and the public interest.

*Staff Comment: Yes.*

**RETURNED REPORTS FROM STAFF:**

Service Department: Recommend approval

Building Inspections: Recommend approval

Fire Department: Recommend approval

City Manager's Office: Recommend approval

Planning and Zoning: Recommend approval

**STAFF RECOMMENDATION:**

Approval of the conditional use permit.

Mr. Ryan asked if the board had any questions for Mr. Thompson. Hearing none, Mr. Ryan asked if the applicant wished to speak. Hearing none, Mr. Ryan asked if there was anyone else that wished to speak. Hearing none, Mr. Ryan asked for a motion to close the public hearing.

**MOTION:** Mr. Harris made a motion to close the public hearing. Seconded by Mr. Brown.

Approval by voice vote.

Mr. Ryan stated that the public hearing was now closed and asked for a motion to approve Case #20-A-31.

**MOTION:** Motion by Mr. Brown to approve a conditional use permit for a commercial recreational use (bingo hall) at 2205 Park Rd. in a CC-2, Community Commercial District. Seconded by Mr. Harris.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. There were no objections.
2. It is a conditional use.
3. It is an appropriate use for the building.

**YEAS:** Mr. Harris, Mr. Burkhardt, Mr. Brown, Ms. Zimmers, and Mr. Ryan.

**NAYS:** None.

Motion approved 5 to 0.

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**Board Comments:** Mr. Thompson stated the 2021 Calendar was included in the packet and pointed out there were two Wednesday meetings.

**Staff Comments:** None.

**Subject:** Adjournment

Mr. Burkhardt made a motion to adjourn the meeting. Seconded by Mr. Harris.

Ms. Gaier adjourned the meeting at 8:30 p.m.

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Ms. Dori Gaier, Chairperson  
Ms. Denise Williams, Vice-Chairperson

**BOARD OF ZONING APPEALS**

**Springfield, Ohio**

**Wednesday January 20, 2021**

**7:00 P.M.**

**Virtual Meeting**

**Meeting Minutes**

**(Summary format)**

Chairperson Ms. Dori Gaier called the meeting to order at 7:00 P.M.

MEMBERS PRESENT: Mr. Charles Harris, Ms. Rhonda Zimmers, Mr. James Burkhardt, Mr. Mathew Ryan, Mr. Mark Brown, Ms. Denise Williams and Ms. Dori Gaier.

MEMBERS ABSENT: Mr. Burkhardt.

OTHERS PRESENT: Stephen Thompson, Planning, Zoning, and Code Administrator  
Cheyenne Pinkerman, Community Development Specialist.

\* \* \* \* \*

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**Case #21-A-01 Request from James Payton for a conditional use permit for cargo containers at 1928, 1930, & 1936 Lagonda Ave. in a CC-2, Community Commercial Residence District.**

Ms. Gaier stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant seeks a conditional use permit to keep cargo containers on site. The containers are used to store tires. The containers were placed without any permits and this began as a Code Enforcement complaint.

**ANALYSIS for Conditional Use:**

In considering an application for a conditional use, the Board shall give due regard to the nature and condition of all adjacent uses and structures, and the consistency therewith of the proposed use and development. Before authorizing a use as a conditional use, the Board shall review the facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that the proposed conditional use at the proposed location:

- (1) Would not be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust and dirt, cinders, noxious gases, glare and heat, fire and safety hazards, sewage wastes and pollution, transportation and traffic, aesthetic and psychological effects. The Board shall use and give recognition to those performance standards which are available in model codes or ordinances, or have been developed by planning, manufacturing, health, architectural and engineering organizations, and can be applied to the proposed use, to assist it in reaching a fair and objective decision;

*Staff Comment: It would not.*

- (2) Is in fact a conditional use as established under the provisions of this Springfield Zoning Code as eligible to be permitted in the district involved;

*Staff Comment: Yes.*

- (3) Will be harmonious with and in accordance with the general objectives, or with any specific objective of this Springfield Zoning Code;

*Staff Comment: Yes.*

- (4) Will be designed, constructed, operated and maintained as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;

*Staff Comment: Yes.*

- (5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

*Staff Comment: Yes.*

- (6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

*Staff Comment: It will not.*

- (7) Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. Upon authorizing a conditional use, the Board shall impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this Springfield Zoning Code for the particular conditional use, as the Board may deem necessary for the protection of adjacent properties and the public interest.

*Staff Comment: Yes.*

**RETURNED REPORTS FROM STAFF:**

Service Department: Recommend approval

Building Inspections: Recommend approval as long as they meet State requirements for the containers

Engineering Division: Recommend approval

Fire Department: Recommend approval

City Manager's Office: Recommend approval

**STAFF RECOMMENDATION:**

Approval of the conditional use permit.

Ms. Gaier asked if the board had any further questions for Mr. Thompson.

Ms. Gaier questioned if the complaint from a citizen or was it discovered by a code enforcement.

Mr. Thompson stated it was a citizen complaint about several locations around town that have containers on their property. Mr. Thompson explained there were several but two owners to action to get proper permits in place, one was heard last month already.

Ms. Zimmers questioned if the cargo container had to meet the state requirement and wondered if the container in question met the requirements.

Mr. Thompson explained the owner still had to go through the process with the building department.

Mr. Harris asked if there would be more than one container.

Mr. Thompson stated there were multiple on the property and that's also why they need to variance, which would be discussed in the following case.

Ms. Zimmers asked if the board could require screening.

Mr. Thompson stated that was correct and they could add the recommendation into the motion.

Ms. Gaier asked if the board had any further questioned for Mr. Thompson. Hearing none, Ms. Gaier asked if the applicant wished to speak.

Mr. Mark Roberts. Attorney for the applicant.

Mr. Roberts stated they were just there to answer any questions. Mr. Roberts explained they had no problem screening the containers.

Ms. Gaier asked if the board had any further questions for applicant. Hearing none, Ms. Gaier asked if there were any further questions or if anyone else wished to speak. Hearing none, Ms. Gaier asked for a motion to close the public hearing.

**MOTION:** Mr. Brown made a motion to close the public hearing. Seconded by Ms. Zimmers. Approval by voice vote.

Ms. Gaier stated that the public hearing was now closed and asked for a motion to approve Case #21-A-01.

**MOTION:** Motion by Ms. Williams to approve the conditional use with the condition they be screened as approved by the City. Seconded by Mr. Brown.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. The Board has approved similar containers in the past.
2. There is no opposition.
3. The container shall be screened.

**Yeas:** Mr. Ryan, Ms. Zimmers, Ms. Harris, Mr. Brown, Ms. Williams and Ms. Gaier.

**Nays:** None.

Motion approved 6 to 0.

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**Case #21-A-02 Request from James Payton for a variance from Chapter 1135.27 to allow for cargo containers more than 7% of the area of existing structures at 1928, 1930, & 1936 Lagonda Ave. in a CC-2, Community Commercial Residence District.**

Ms. Gaier stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant seeks a variance to keep cargo containers on site that exceed 7% of the current building. There are multiple containers on site. The containers were placed without obtaining any permits.

Chapter 1135.27(e) states "Cargo containers exceeding 120 square feet are allowed in commercially zoned districts only as a conditional use. They may not be located in any setback required by zoning, nor be placed upon required parking, nor may their combined area exceed 7% of the floor area of the permanent structures on the site. They cannot be stacked."

### **ANALYSIS for Variance:**

The Board may grant a variance only where there exists a “practical difficulty” as defined by the courts in Ohio in established case law. The Ohio Supreme Court’s decision in Kisil v. City of Sandusky, (1984) 12 Ohio State 3d 30, is a land mark decision in establishing common law governing variances by distinguishing between “use” and “area variances.” Area variances involve an exception from such requirements as yard, lot, and height standards. The Supreme Court established that a practical difficulty must exist before an area variance can be granted.

Then subsequent to this case, in Duncan v. Village of Middlefield, (1986) 23 Ohio 3d 83, the Ohio Supreme Court more fully explained the practical difficulty standards. The factors to be considered and weighed in determining whether a property owner seeking a variance has encountered a practical difficulty in the use of his/her property include, but are not limited to:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

*Staff Comment: Yes.*

1. Whether the variance is substantial;

*Staff Comment: Yes.*

1. Whether the essential character of the neighborhood will be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

*Staff Comment: No.*

1. Whether the variance would adversely affect the delivery of government services (e.g., water, sewer);

*Staff Comment: No.*

1. Whether the property owner purchased the property with the knowledge of the zoning restrictions;

*Staff Comment: No.*

1. Whether the property owner's predicament can be obviated through some method other than a variance; or

*Staff Comment: Yes. A permanent structure can be built to store tires.*

1. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

*Staff Comment: Yes.*

**RETURNED REPORTS FROM STAFF:**

Service/Engineering Department: Recommend approval

Building Inspections: Recommend approval as long as they meet State requirements for the containers

Engineering Division: Recommend approval

Fire Department: Recommend approval

City Manager's Office: Recommend approval

**STAFF RECOMMENDATION:**

Approval of the variance.

Ms. Gaier asked if the board had any questions for Mr. Thompson. Hearing none, Ms. Gaier asked if there were any further questions for the applicant. Hearing none, Ms. Gaier asked if there was anyone else that wished to speak. Hearing none, Ms. Gaier asked for a motion to close the public hearing.

**MOTION:** Ms. Zimmers made a motion to close the public hearing. Seconded by Mr. Harris. Approval by voice vote.

Ms. Gaier stated that the public hearing was now closed and asked for a motion to approve Case #21-A-02.

**MOTION:** Motion by Mr. Harris to approve the variance to allow cargo containers over 7% of existing floor area. Seconded by Mr. Ryan.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. The Board has approved similar containers in the past.

2. There is no opposition.
3. The container shall be screened.

**YEAS:** Mr. Harris, Ms. Zimmers, Mr. Ryan, Mr. Brown, Ms. Williams and Ms. Gaier  
**NAYS:** None.

Motion approved 6 to 0.

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**Case #21-A-03 Request from James Payton for a conditional use to allow for a cargo container at 1717 W North St. in a CI-1, Intensive Commercial District.**

Ms. Gaier stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant seeks a conditional use permit to keep cargo containers on site. The containers are used to store tires. The containers were placed without any permits and this began as a Code Enforcement complaint.

**ANALYSIS for Conditional Use:**

In considering an application for a conditional use, the Board shall give due regard to the nature and condition of all adjacent uses and structures, and the consistency therewith of the proposed use and development. Before authorizing a use as a conditional use, the Board shall review the facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that the proposed conditional use at the proposed location:

- (1) Would not be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust and dirt, cinders, noxious gases, glare and heat, fire and safety hazards, sewage wastes and pollution, transportation and traffic, aesthetic and psychological effects. The Board shall use and give recognition to those performance standards which are available in model codes or ordinances, or have been developed by planning, manufacturing, health, architectural and engineering organizations, and can be applied to the proposed use, to assist it in reaching a fair and objective decision;

***Staff Comment:*** *It would not.*

- (2) Is in fact a conditional use as established under the provisions of this Springfield Zoning Code as eligible to be permitted in the district involved;

***Staff Comment:*** *Yes.*

- (3) Will be harmonious with and in accordance with the general objectives, or with any specific objective of this Springfield Zoning Code;

*Staff Comment: Yes.*

- (4) Will be designed, constructed, operated and maintained as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;

*Staff Comment: Yes.*

- (5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

*Staff Comment: Yes.*

- (6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

*Staff Comment: It will not.*

- (7) Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. Upon authorizing a conditional use, the Board shall impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this Springfield Zoning Code for the particular conditional use, as the Board may deem necessary for the protection of adjacent properties and the public interest.

*Staff Comment: Yes.*

**RETURNED REPORTS FROM STAFF:**

Service Department: Recommend approval

Building Inspections: Recommend approval as long as they meet State requirements for the containers

Engineering Division: Recommend approval

Fire Department: Recommend approval

City Manager's Office: Recommend approval

**STAFF RECOMMENDATION:**

Approval of the conditional use permit.

Ms. Gaier asked if the board had any questions for Mr. Thompson. Hearing none, Ms. Gaier asked if the applicant wished to speak. Hearing none, Ms. Gaier asked if there was anyone else that wished to speak. Hearing none, Ms. Gaier asked for a motion to close the public hearing.

**MOTION:** Ms. Williams made a motion to close the public hearing. Seconded by Mr. Harris. Approval by voice vote.

Ms. Gaier stated that the public hearing was now closed and asked for a motion to approve Case #21-A-03.

**MOTION:** Motion by Mr. Ryan to approve the conditional use with the condition they be screened as approved by the City. Seconded by Mr. Harris.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. The Board has approved similar containers in the past.
2. There is no opposition.
3. The container shall be screened.

**YEAS:** Mr. Harris, Ms. Zimmers, Mr. Ryan, Mr. Brown, Ms. Williams and Ms. Gaier  
**NAYS:** None.

Motion approved 6 to 0.

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**Case #21-A-04 Request from James Payton for a variance from Chapter 1135.27 to allow for cargo containers more than 7% of the area of existing structures at 1717 W North St. in a CI-1, Intensive Commercial Residence District.**

Ms. Gaier stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant seeks a variance to keep cargo containers on site that exceed 7% of the current building. There are multiple containers on site. The containers were placed without obtaining any permits.

Chapter 1135.27(e) states "Cargo containers exceeding 120 square feet are allowed in commercially zoned districts only as a conditional use. They may not be located in any setback required by zoning, nor be placed upon required parking, nor may their combined area exceed 7% of the floor area of the permanent structures on the site. They cannot be stacked."

### **ANALYSIS for Variance:**

The Board may grant a variance only where there exists a “practical difficulty” as defined by the courts in Ohio in established case law. The Ohio Supreme Court’s decision in Kisil v. City of Sandusky, (1984) 12 Ohio State 3d 30, is a land mark decision in establishing common law governing variances by distinguishing between “use” and “area variances.” Area variances involve an exception from such requirements as yard, lot, and height standards. The Supreme Court established that a practical difficulty must exist before an area variance can be granted.

Then subsequent to this case, in Duncan v. Village of Middlefield, (1986) 23 Ohio 3d 83, the Ohio Supreme Court more fully explained the practical difficulty standards. The factors to be considered and weighed in determining whether a property owner seeking a variance has encountered a practical difficulty in the use of his/her property include, but are not limited to:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

***Staff Comment: Yes.***

1. Whether the variance is substantial;

***Staff Comment: Yes.***

1. Whether the essential character of the neighborhood will be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

***Staff Comment: No.***

1. Whether the variance would adversely affect the delivery of government services (e.g., water, sewer);

***Staff Comment: No.***

1. Whether the property owner purchased the property with the knowledge of the zoning restrictions;

***Staff Comment: No.***

1. Whether the property owner's predicament can be obviated through some method other than a variance; or

*Staff Comment: No.*

1. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

*Staff Comment: Yes.*

**RETURNED REPORTS FROM STAFF:**

Service/Engineering Department: Recommend approval

Building Inspections: Recommend approval as long as they meet State requirements for the containers

Engineering Division: Recommend approval

Fire Department: Recommend approval

City Manager's Office: Recommend approval

**STAFF RECOMMENDATION:**

Approval of the variance.

Ms. Gaier asked if the board had any questions for Mr. Thompson.

Ms. Gaier questioned where the containers were located.

Mr. Thompson explained where the containers were located.

Ms. Gaier asked if the board had any further questions for the Mr. Thompson. Hearing none, Ms. Gaier asked if the applicant or the applicants agent wished to speak. Hearing none, Ms. Gaier asked if there was anyone else that wished to speak. Hearing none, Ms. Gaier asked for a motion to close the public hearing.

**MOTION:** Ms. Zimmers made a motion to close the public hearing. Seconded by Ms. Williams. Approval by voice vote.

Ms. Gaier stated that the public hearing was now closed and asked for a motion to approve Case #21-A-04.

**MOTION:** Motion by Ms. Zimmers to approve the variance to allow cargo containers over 7% of existing floor area. Seconded by Mr. Ryan.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. The Board has approved similar containers in the past.
2. There is no opposition.
3. The container shall be screened.

**YEAS:** Mr. Harris, Ms. Zimmers, Mr. Burkhardt, Mr. Ryan, Mr. Brown, Ms. Williams and Ms. Gaier

**NAYS:** None.

Motion approved 7 to 0.

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**Case #21-A-05 Request from James Payton for a variance from Chapter 1135.27 to allow cargo containers in a residential district at 228 & 232 Selma Rd. in a RS-8, Medium-Density, Single-Family Residence District.**

Ms. Gaier stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant seeks a variance to keep cargo containers on site in a residential district. There are multiple containers on site. The containers were placed without obtaining any permits.

Chapter 1135.27(d) states "Cargo containers exceeding 120 square feet are allowed in residentially zoned districts only if in active use for the storage of construction materials for ongoing permitted construction, or for a maximum period of seven consecutive days in association with the relocation of the contents of a residential structure.

**ANALYSIS for Variance:**

The Board may grant a variance only where there exists a "practical difficulty" as defined by the courts in Ohio in established case law. The Ohio Supreme Court's decision in Kisil v. City of Sandusky, (1984) 12 Ohio State 3d 30, is a land mark decision in establishing common law governing variances by distinguishing between "use" and "area variances." Area variances involve an exception from such requirements as yard, lot, and height standards. The Supreme Court established that a practical difficulty must exist before an area variance can be granted.

Then subsequent to this case, in Duncan v. Village of Middlefield, (1986) 23 Ohio 3d 83, the Ohio Supreme Court more fully explained the practical difficulty standards. The factors to be

considered and weighed in determining whether a property owner seeking a variance has encountered a practical difficulty in the use of his/her property include, but are not limited to:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

*Staff Comment: Yes.*

1. Whether the variance is substantial;

*Staff Comment: Yes.*

1. Whether the essential character of the neighborhood will be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

*Staff Comment: No.*

1. Whether the variance would adversely affect the delivery of government services (e.g., water, sewer);

*Staff Comment: No.*

1. Whether the property owner purchased the property with the knowledge of the zoning restrictions;

*Staff Comment: No.*

1. Whether the property owner's predicament can be obviated through some method other than a variance; or

*Staff Comment: No.*

1. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

*Staff Comment: Yes.*

**RETURNED REPORTS FROM STAFF:**

Service/Engineering Department: Recommend approval

Building Inspections: Recommend approval as long as they meet State requirements for the containers

Engineering Division: Recommend approval

Fire Department: Recommend approval

City Manager's Office: Recommend approval

**STAFF RECOMMENDATION:**

Approval of the variance.

Ms. Gaier asked if the board had any questions for Mr. Thompson.

Ms. Gaier asked if there were any complaints from the surrounding neighbors.

Mr. Thompson stated he received no complaints or calls.

Ms. Williams questioned how visible the containers were.

Mr. Thompson explained the containers were more visible heading east on Selma. Mr. Thompson stated it doesn't stand out in his opinion.

Ms. Zimmers questioned if there were specifics on the previous case for containers on Selma.

Mr. Thompson stated he did not remember there being any specifics as far as Selma road. Mr. Thompson explained there was a fence around the property and the applicant discussed putting slats in the fence, painting and adding shrubbery.

Ms. Gaier asked if the container was visible from Limestone.

Mr. Thompson said it was not.

Ms. Zimmers stated she was concerned for the residential views and asked if there was a fence up to block.

Mr. Thompson said the applicant could answer those questions better.

Mr. Roberts explained the owners house was located right behind the property. Mr. Roberts explained there was a block wall on west facing side and a large arborvitae tree that's blocks the view.

Ms. Gaier asked if the board had any further questions for the applicant. Hearing none, Ms. Gaier asked if there was anyone else that wished to speak. Hearing none, Ms. Gaier asked for a motion to close the public hearing.

**MOTION:** Ms. Williams made a motion to close the public hearing. Seconded by Ms. Zimmers. Approval by voice vote.

Ms. Gaier stated that the public hearing was now closed and asked for a motion to approve Case #21-A-05.

**MOTION:** Motion by Mr. Ryan to approve the variance from Chapter 1135.27(d) to allow cargo containers in a residential district. Seconded by Ms. Williams.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. The Board has approved similar containers in the past.
2. There is no opposition.
3. The container shall be screened.

**YEAS:** Mr. Harris, Ms. Zimmers, Mr. Ryan, Mr. Brown, Ms. Williams and Ms. Gaier

**NAYS:** None.

Motion approved 6 to 0.

---

**Elect Chair and Vice Chair for 2021.**

**Motion by Mr. Brown to keep Ms. Denise Williams as Vice Chairperson and Ms. Dori Gaier as Chairperson. Seconded by Ms. Zimmers.**

**The Board approved the motion by voice vote.**

**Board Comments:** Ms. Williams stated she wished to continue doing meetings over zoom.

**Staff Comments:** None.

**Subject:** Adjournment

Ms. Williams made a motion to adjourn the meeting. Seconded by Ms. Zimmers.

Ms. Gaier adjourned the meeting at 7:55 p.m.

---

Ms. Dori Gaier, Chairperson

Ms. Denise Williams, Vice-Chairperson

# **Agenda Item # 5**

**Case #21-A-06**

**Conditional Use**

**FOR OFFICE USE ONLY**Case #: 21-A-06Date Received: 1/25/21Received by: STApplication Fee: \$ 285

Review Type:

☐ Admin ☐ CPB ☒ BZA**GENERAL APPLICATION****A. PROJECT**

1. Application Type &amp; Project Description (attach additional information, if necessary):

Conditional Use Permit.2. Address of Subject Property: 2043 Memorial Dr.3. Parcel ID Number(s): 34007000213080244. Full legal description attached? ☒ yes ☐ no5. Size of subject property: 1.003 Acres6. Current Use of Property: Church / Day Care7. Current Zoning of Property: RS-5**B. APPLICANT**1. Applicant's Status (attach proof of ownership or agent authorization) ☒ Owner☐ Agent (agent authorization required) ☐ Tenant (agent authorization required)2. Name of Applicant(s) or Contact Person(s): Jay CrawfordTitle: PresidentCompany (if applicable): Self-Reliance, Inc.Mailing address: 1822 N. Limestone St.City: Springfield State: OH. ZIP: 45513Telephone: (937) 207-8579 Fax: ( ) N/AEmail: SR13674@yahoo.com

3. If the applicant is agent for the property owner:

Name of Owner (title holder): N/A

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

**I/WE CERTIFY AND ACKNOWLEDGE THAT THE INFORMATION  
CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF MY/OUR  
KNOWLEDGE.**

[Signature]  
Signature of Applicant

Jay Crawford "President"  
Typed or printed name and title of applicant

N/A  
Signature of Co-applicant

N/A  
Typed or printed name of co-applicant

State of Ohio

County of Clark

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of  
January, 2021

by Jay Crawford (name of person acknowledged).

(seal)



[Signature]  
Notary Public Signature

My commission expires: Jan 10, 2024.



CITY OF SPRINGFIELD  
COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING & ZONING DIVISION

BOARD OF ZONING APPEALS APPLICATION

Date: 1-21-2021

Property address: 2043 Memorial dr.

Requested Action: ☒ Conditional Use  
☐ Interpretation of the Zoning Code or Map  
☐ Change of a Nonconforming Use  
☐ Other

Section of the Zoning code applicable: \_\_\_\_\_

Purpose of this request, including the improvements or physical changes proposed if this application is approved:

No Improvements, No physical changes.  
Conditional use Permit.

Please include the following exhibits:

**Exhibit A**

A scale drawing with the dimensions of the property including existing and proposed buildings and their distances from lot lines, parking spaces, and adjoining streets and alleys. Please see example site plan. Additional copies may be required as needed.

Basis for the requested action: Substantiate the reasons why you feel the Board of Zoning Appeals should grant your request. Be specific. Use the space that follows (attach additional pages if necessary).

Adult day care for the developmentally  
disabled. Hours of operation consist of:  
Mon - Fri 8:30 am - 1:30 pm  
Saturday 11:00 am - 4:00 pm

Signature: \_\_\_\_\_



Applicant

1/21/2021

Date

Please Print Name: \_\_\_\_\_

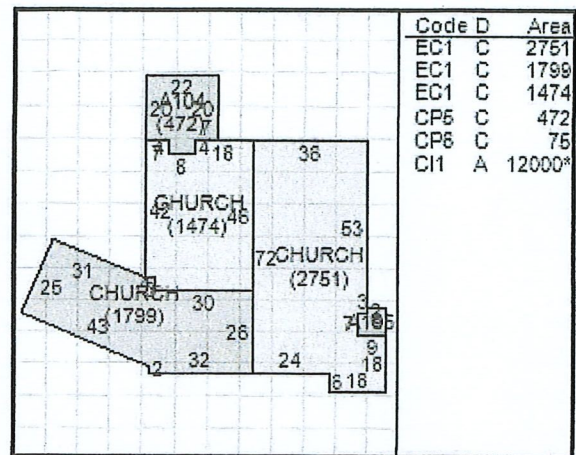
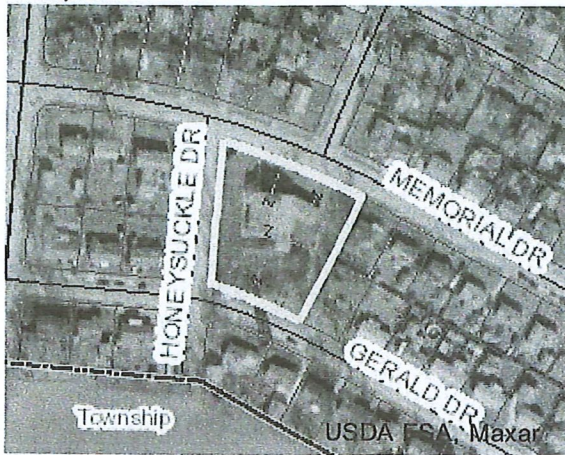
Jay Crawford



Clark County GIS - John S. Federer  
(937) 521-1860 - gis@clarkcountyohio.gov

Report generated: Wednesday, January 20, 2021

## Parcel Report



### Base Data

**Parcel Number:** 3400700021308024  
**Owner Name:** CRAWFORD JAY A & ELIZABETH A  
**Property Address:** 2043 MEMORIAL DR, SPRINGFIELD 45505

### Legal

**Neighborhood:** 300C1000  
**Legal Acres:** 1.00  
**Land Use:** 685 CHURCHES, OTH EXMPT PUBLIC WORSHIP  
**Map Number:** 0021-02  
**Class:** E  
**Description:** BELMONT MEADOWS 4 (11)  
 14668  
 14669  
 14670  
 14672  
 14673;

### Valuation

**Appraised Assessed (35%)**  
**Land Value:** \$48,760.00 \$17,070.00  
**Building Value:** \$440,290.00 \$154,100.00  
**Total Value:** \$489,050.00 \$171,170.00  
**CAUV Value:** \$0.00  
**Taxable Value:** \$171,170.00

### Tax Credits

**Homestead:** No  
**Exemption:**  
**2.5% Reduction:** No

### Land

Description	Effective Lot Size	Act. Frontage	Acres	Sq. Foot	Value
REGULAR LOT	223 * 196	223	1.003	43,708	\$48,760.00

### Land Totals

**Effective Total Acres:** 1.003  
**Effective Total Square Footage:** 43,708  
**Total Value:** \$48,760.00

### Valuation

**Appraised Assessed (35%)**  
**Land Value:** \$48,760.00 \$17,070.00  
**Building Value:** \$440,290.00 \$154,100.00  
**Total Value:** \$489,050.00 \$171,170.00  
**CAUV Value:** \$0.00  
**Taxable Value:** \$171,170.00

### Sales

Sale Date	Sale Price	Seller	Buyer	Number of Parcels
01/15/2021	\$190,000.00	CHURCH ST MARK'S METHODIST	CRAWFORD JAY A & ELIZABETH A	

ABRAHAM WILLIAM A & TAMARA L	2010 GERALD DR	SPRINGFIELD, OH 45505
ADKINS JEANETT	2115 MEMORIAL DR	SPRINGFIELD, OH 45505
ANDREWS RUSSELL E SR	2028 TANAGER RD	SPRINGFIELD, OH 45505
ASTON NICOLE C	2034 TANAGER RD	SPRINGFIELD, OH 45505
ATW PROPERTIES LLC	522 SHEFFIELD DR	SPRINGFIELD, OH 45506
BARMANN JAMES M	1571 SUNSET AVE	SPRINGFIELD, OH 45505
BERNATH SUSAN B	2035 TANAGER RD	SPRINGFIELD, OH 45505
CHURCH ST MARK'S METHODIST	2043 MEMORIAL DR	SPRINGFIELD, OH 45505
CUNNINGHAM JOYCE A	2118 MEMORIAL DR	SPRINGFIELD, OH 45505
DABE BRYAN S	2108 GERALD DR	SPRINGFIELD, OH 45505
DAVIS DEBORAH A	2010 MEMORIAL DR	SPRINGFIELD, OH 45505
ELIAS SARAH	2018 GERALD DR	SPRINGFIELD, OH 45505
GILBERT KAREN A	2037 GERALD DR	SPRINGFIELD, OH 45505
GILBERT KAREN A	2018 MEMORIAL DR	SPRINGFIELD, OH 45505
GRIFFITH DYLAN	2011 GERALD DR	SPRINGFIELD, OH 45505
HAWK TIMOTHY P & MARGARET E	2001 GERALD DR	SPRINGFIELD, OH 45505
HAYES JEFFREY R	2026 MEMORIAL DR	SPRINGFIELD, OH 45505
HOUSES DONE RIGHT LLC	2696 WILLOW RD	SPRINGFIELD, OH 45502
JAY & ELIZABETH CRAWFORD	1822 N LIMESTONE ST	SPRINGFIELD, OH 45503
JENKINS EDWARD A & SUSAN R	2030 MEMORIAL DR	SPRINGFIELD, OH 45505
LOWE SCOTT E	2113 GERALD DR	SPRINGFIELD, OH 45505
MANLEY PAMELA S	2129 MEMORIAL DR	SPRINGFIELD, OH 45505
MARTIN RICHARD J	2107 GERALD DR	SPRINGFIELD, OH 45505
PENCIL LINDA D	2114 GERALD DR	SPRINGFIELD, OH 45505
PUCKETT GEORGE W & LINDA L	2019 MEMORIAL DR	SPRINGFIELD, OH 45505
SCHLIEP THOMAS J & VERA M	420 LARCHMONT AVE	SPRINGFIELD, OH 45503
SEEVER ROBERT N & LINDA R	2112 MEMORIAL DR	SPRINGFIELD, OH 45505
SELLMAN PATRICIA L	2107 MEMORIAL DR	SPRINGFIELD, OH 45505
SPELLMAN SAMUEL J	2815 MIDDLE URBANA RD	SPRINGFIELD, OH 45502
SWEET MANUFACTURING COMPANY	2000 E LEFFEL LN	SPRINGFIELD, OH 45505
TJB	2122 GERALD DR	SPRINGFIELD, OH 45505
WAGNER JAMES LESLIE	PO BOX 1052	SPRINGFIELD, OH 45501
WUNDERLY CHRISTOPHER M	2041 TANAGER RD	SPRINGFIELD, OH 45505
YAKE KENNETH H & MARY V	2031 TANAGER ROAD	SPRINGFIELD, OH 45505

## STAFF REPORT

TO: Board of Zoning Appeals

DATE: February 10, 2021

PREPARED BY: Stephen Thompson

SUBJECT: Case #21-A-06

### **GENERAL INFORMATION:**

Applicant: Jay Crawford, 1822 N Limestone St., Springfield, OH 45503

Owner: Jay Crawford, 1822 N Limestone St., Springfield, OH 45503

Purpose: For a conditional use permit – daycare center

Location: 2043 Memorial Dr.

Size: 1.00 acre

Existing Land Use and Zoning: Church, zoned RS-5

Surrounding Land Use and Zoning: North: Residential, RS-5  
East: Residential, RS-5  
South: Residential, RS-5  
West: Residential, RS-5

Applicable Regulations: Chapter 1172.05 Board of Zoning Appeals: Conditional Uses  
Chapter 1107.04 Conditional Uses

File Date: January 25, 2021

### **BACKGROUND:**

The applicant seeks a conditional use permit to start an adult daycare center. The center will be for developmentally disabled and hours of operation will be Monday through Friday from 8:30 AM to 1:30 PM and Saturday from 11:00 AM to 4:00 PM

### **ANALYSIS for Conditional Use:**

In considering an application for a conditional use, the Board shall give due regard to the nature and condition of all adjacent uses and structures, and the consistency therewith of the proposed use and development. Before authorizing a use as a conditional use, the Board shall review the facts and circumstances of each proposed conditional use in terms of the following standards and

shall find adequate evidence showing that the proposed conditional use at the proposed location:

- (1) Would not be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust and dirt, cinders, noxious gases, glare and heat, fire and safety hazards, sewage wastes and pollution, transportation and traffic, aesthetic and psychological effects. The Board shall use and give recognition to those performance standards which are available in model codes or ordinances, or have been developed by planning, manufacturing, health, architectural and engineering organizations, and can be applied to the proposed use, to assist it in reaching a fair and objective decision;

*Staff Comment: It would not.*

- (2) Is in fact a conditional use as established under the provisions of this Springfield Zoning Code as eligible to be permitted in the district involved;

*Staff Comment: Yes.*

- (3) Will be harmonious with and in accordance with the general objectives, or with any specific objective of this Springfield Zoning Code;

*Staff Comment: Yes.*

- (4) Will be designed, constructed, operated and maintained as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;

*Staff Comment: Yes. It is an existing building.*

- (5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

*Staff Comment: Yes.*

- (6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

*Staff Comment: It will not.*

- (7) Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. Upon authorizing a conditional use, the Board shall impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this Springfield Zoning Code for the particular conditional use, as the Board may deem necessary for the protection of adjacent properties and the public interest.

*Staff Comment: Yes, it does.*

**RETURNED REPORTS FROM STAFF:**

Service Department:	Recommend approval
Building Inspections:	Recommend approval; they will need to get permits through the Fire and Building Department
Engineering Division:	Recommend approval
Fire Department:	Recommend approval
City Manager's Office:	Recommend approval

**STAFF RECOMMENDATION:**

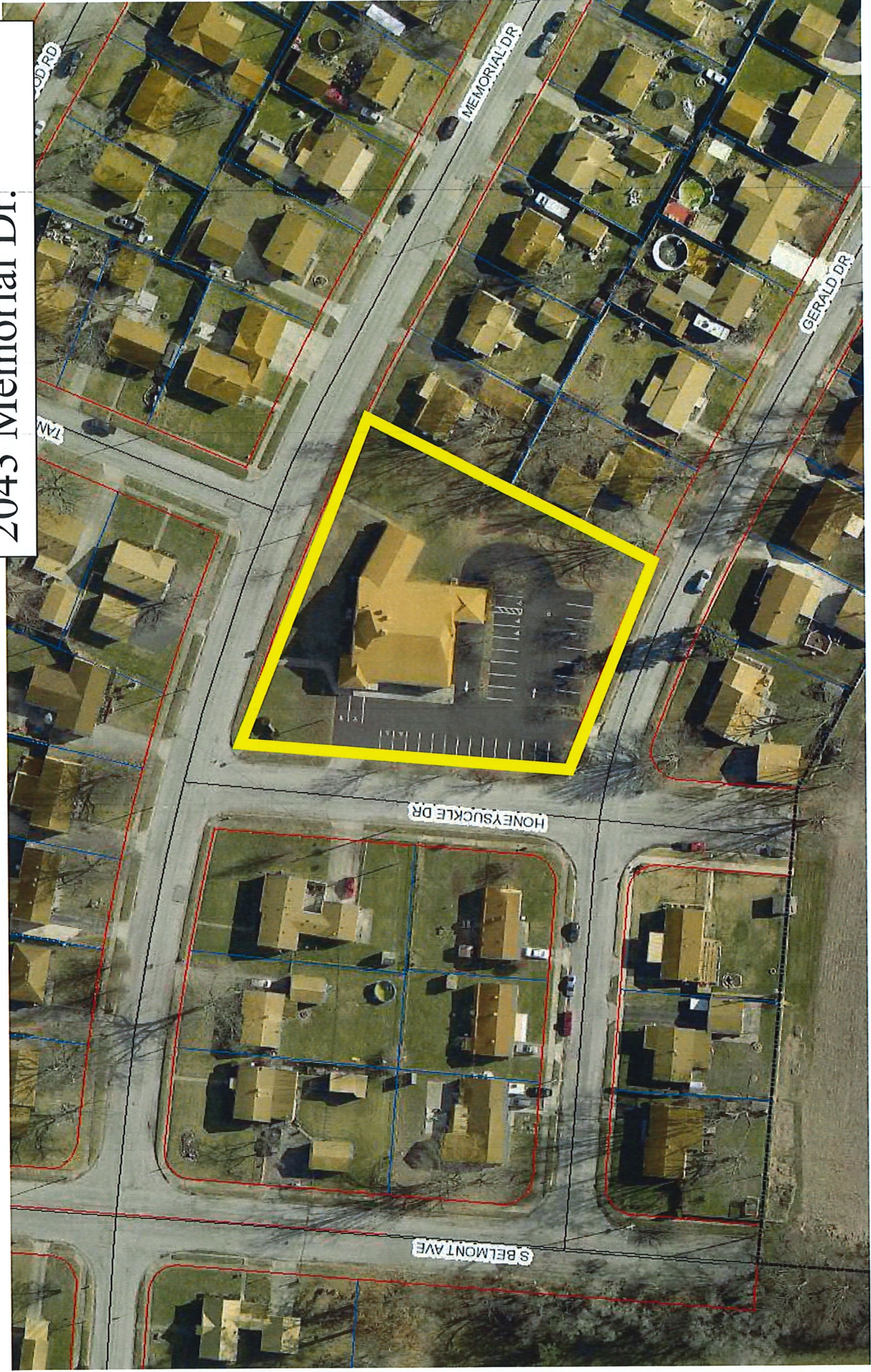
Approval of the conditional use permit.

**ATTACHMENTS:**

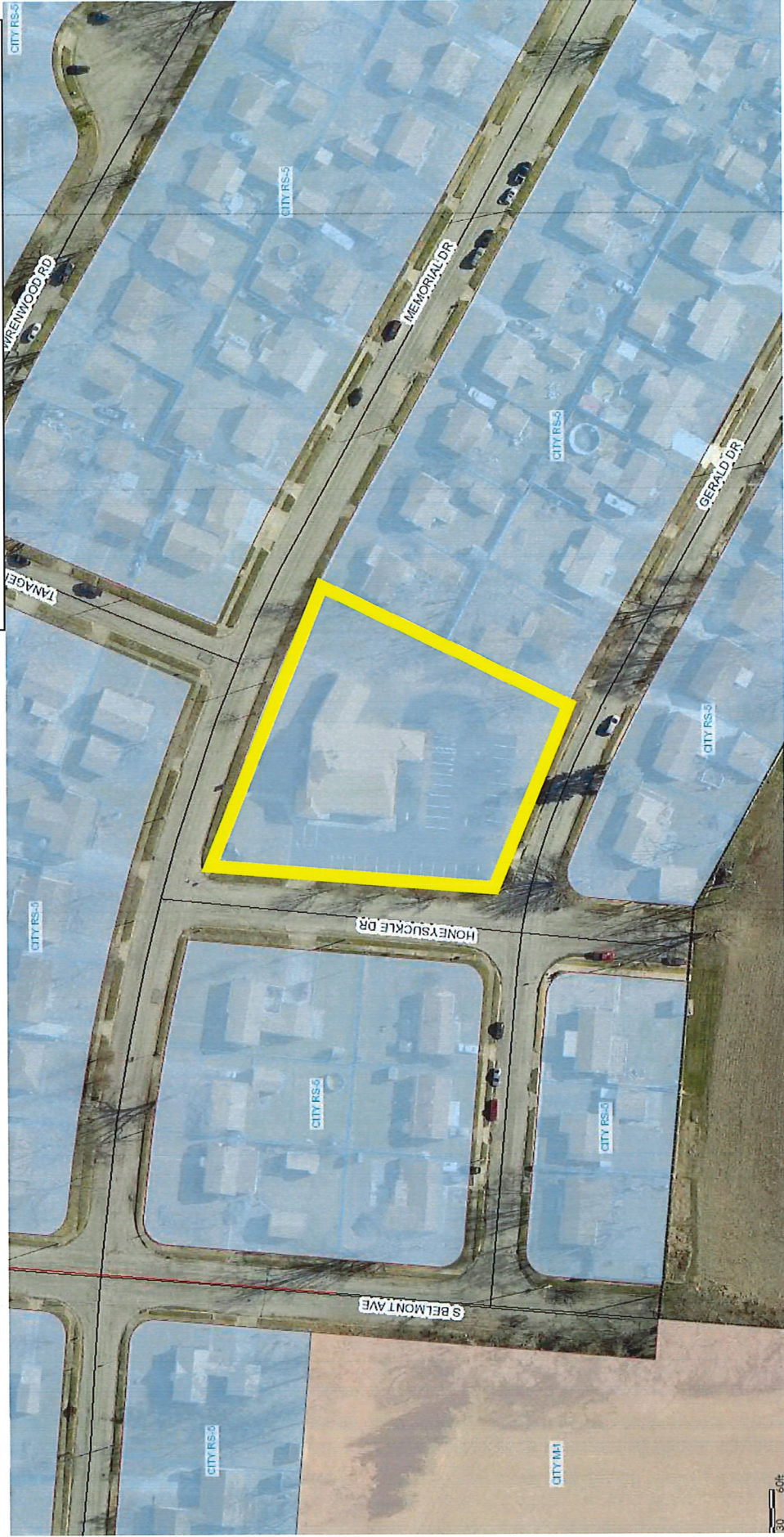
1. Vicinity and zoning map
2. Application

#21-A-06

2043 Memorial Dr.



#21-A-06  
2043 Memorial Dr.





# **Agenda Item # 6**

**Case #21-A-07**

**Variance**

**FOR OFFICE USE ONLY**Case #: 21-A-0007Date Received: 1/25/21Received by: STApplication Fee: \$ 289

Review Type:

☐ Admin ☐ CPB ☒ BZA**GENERAL APPLICATION****A. PROJECT**1. Application Type & Project Description (*attach additional information, if necessary*):NEW PREFABRICATED METAL BUILDING, SINGLE STORY, 17,500 SF STORAGE WAREHOUSE, 29'4"TALL, FULLY SPRINKLED.2. Address of Subject Property: 2105 SHERIDAN AVE., SPRINGFIELD, OH 455053. Parcel ID Number(s): 34007000223130014. Full legal description attached? ☒ yes ☐ no5. Size of subject property: 10 ACRES6. Current Use of Property: 320 FOUNDERIES & HEAVY MFG PLANTS7. Current Zoning of Property: COMMERCIAL**B. APPLICANT**1. Applicant's Status (*attach proof of ownership or agent authorization*) ☐ Owner☒ Agent (*agent authorization required*) ☐ Tenant (*agent authorization required*)2. Name of Applicant(s) or Contact Person(s): COLLIN LINKTitle: EITCompany (if  
applicable): \_\_\_\_\_

Mailing address:

5995 COUNTY ROAD 48City: RUSHSYLVANIA State: OH ZIP: 43347Telephone: ( 937 ) 539 - 0132 Fax: ( ) \_\_\_\_\_

Email

collin@mkengr.com

3. If the applicant is agent for the property owner:

Name of Owner (title holder): TIER ONE DISTRIBUTION LLC


Mailing Address: 2105 SHERIDAN AVE.

City: SPRINGFIELD

State: OH

ZIP: 45505

**I/WE CERTIFY AND ACKNOWLEDGE THAT THE INFORMATION  
CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF MY/OUR  
KNOWLEDGE.**

  
Signature of Applicant

\_\_\_\_\_  
Signature of Co-applicant

COLLIN LINK

Typed or printed name and title of applicant

\_\_\_\_\_  
Typed or printed name of co-applicant

State of Ohio

County of Roanoke

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of

Jan, 20 21

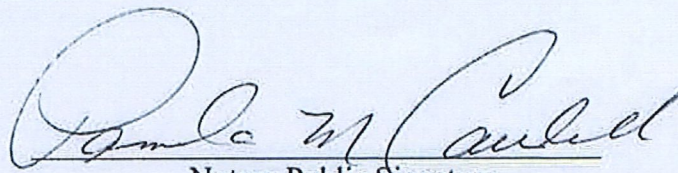
by 

(name of person acknowledged).

(seal)



PAMELA M. CAUDILL  
Notary Public, State of Ohio  
My Comm. Expires July 18, 2024

  
Notary Public Signature

My commission expires: 7-18-24



**CITY OF SPRINGFIELD**  
COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING & ZONING DIVISION

BOARD OF ZONING APPEALS - VARIANCE APPLICATION

Date: 1/22/2021

Property address: 2105 SHERIDAN AVE., SPRINGFIELD, OH 45505

Section of the Zoning code applicable: 1158.02 SPECIFIC REQUIREMENTS (2) (e)

Purpose of this request, including the improvements or physical changes proposed if this application is approved:

REQUESTING VARIANCE SO AS TO NOT PLANT TREES BECAUSE THERE IS NO PLACE TO  
ACTUALLY PLANT THEM.

Please include the following exhibits:

**Exhibit A**

A scale drawing with the dimensions of the property including existing and proposed buildings and their distances from lot lines, parking spaces, and adjoining streets and alleys. Please see example site plan. Additional copies may be required as needed.

**Basis for the requested action:** Substantiate the reasons why you feel the Board of Zoning Appeals should grant your request. Be specific (attach additional pages if necessary).

ZONING CODE STATES THAT TREES MUST BE PLANTED WHEN NEW CONSTRUCTION TAKES  
PLACE. HOWEVER, THE AVAILABLE RIGHT OF WAY SPACE IS EXTREMELY NARROW AND  
ANY TREES WOULD HAVE TO BE PLANTED DIRECTLY UNDERNEATH POWER LINES (SEE  
PICTURES 1 AND 2). IN ADDITION, TREES WOULD HAVE TO BE PLANTED DIRECTLY NEXT  
TO THE ROAD WHICH THE ROOTS WOULD EVENTUALLY CAUSE DAMAGE TO EXISTING  
PAVEMENT AND CURB. FINALLY, THERE IS NOT A REASONABLE LOCATION TO PLANT  
TREES ADJACENT TO THE ROW DUE TO AN EXISTING-TO REMAIN CHAIN LINK FENCE

AND EXISTING TO REMAIN PAVEMENT FOR TRUCK TRAFFIC. ANY TREES PLANTED ADJACENT TO THE  
ROW WOULD HAVE TO BE PLANTED FAR ENOUGH FROM THE EXISTING POWER LINES, WHICH WOULD  
THEN CAUSE UNNECESSARY OBSTACLES AND CREATE CRASHING HAZARDS FOR TRUCK TRAFFIC.

An appeal for a variance to the Zoning Code cannot be granted by the Board of Zoning Appeals unless the following factors are shown to exist. Therefore, for each factor explain in detail how each applies to your appeal: (Please write on additional sheets of paper if you need more space).

1. The property in question cannot yield a reasonable return and there can be no beneficial use of the property without the variance. The variance would relieve a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience to the appellant.

THERE IS NOT A REASONABLE PLACE TO PLANT NEW TREES ADJACENT TO THE ROW  
WITHOUT CAUSING CRASHING HAZARDS FOR TRUCK TRAFFIC.

2. The variance is not substantial, i.e. the modification in the requirement that is being requested is not a significant amount in comparison to the requirement.

THIS ONLY AFFECTS THE PLANTINGS OF 7 TREES.

3. The essential character of the neighborhood, i.e. adjacent properties, will not be substantially altered or suffer a substantial detriment as a result of the variance.

THERE ARE NO OTHER TREES ALONG THE ROW ON THE SOUTH SIDE OF SHERIDAN  
AVENUE. THIS AREA IS AN EXISTING INDUSTRIAL PARK.

4. The variance will not adversely affect the delivery of governmental services such as water, sewer.

THIS VARIANCE WOULD POSITIVELY AFFECT GOVERNMENTAL SERVICES BECAUSE OF THE  
PROXIMITY THESE TREES WOULD BE TO EXISTING POWER LINES.

5. The property owner was not aware of the zoning restrictions when purchasing the property.

OWNER HAS HAD THIS PROPERTY FOR OVER 20 YEARS PRIOR TO THE DEVELOPMENTS  
OF THIS ZONING RESTRICTION.

6. There is no other feasible method of solving the property owner's predicament.

THE ENTIRE NORTH SIDE OF THE PROPERTY HAS POWER LINES AND THE SOUTH SIDE OF THE PROPERTY HAS AN EXISTING RAIL. THERE IS NO FEASIBLE LOCATION TO PLANT TREES.

7. The spirit and intent behind the zoning requirement will be observed and substantial justice done by granting the variance.

ALL EXISTING TREES ON THE PROPERTY AND SURROUNDING THE PROPERTY ARE TO REMAIN. NO EXISTING TREES ARE TO BE REMOVED.

**I/WE CERTIFY AND ACKNOWLEDGE THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF MY/OUR KNOWLEDGE.**

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Signature of Co-applicant

COLLIN LINK

\_\_\_\_\_  
Typed or printed name and title of applicant

\_\_\_\_\_  
Typed or printed name of co-applicant

State of Ohio

County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

by \_\_\_\_\_ (name of person acknowledged).

(seal)

\_\_\_\_\_  
Notary Public Signature

My commission expires: \_\_\_\_\_



☒ Planning & Zoning

**CITY OF SPRINGFIELD**  
COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING & ZONING DIVISION

PROPERTY OWNER AFFIDAVIT (IF NECESSARY)

Address: 2105 SHERIDAN AVE., SPRINGFIELD, OH 45505  
Parcel No.: 3400700022313001  
Acreage: 10 AC

Agent Name: COLLIN LINK  
Agent Tax Mailing Address: 5995 COUNTY ROAD 48  
RUSHSVLVANIA, OH 43347  
Agent Phone Number: (937) 539 - 0132

Owner Name: TIER ONE DISTRIBUTION LLC  
Owner Tax Mailing Address: 2105 SHERIDAN AVE.  
SPRINGFIELD, OH 45505  
Owner Phone Number: (937) 323 - 6325

Requested Action REQUESTING VARIANCE FOR CONSTRUCTION OF NEW WAREHOUSE  
(to be conducted by  
Agent, authorized by  
owner):

**I hereby certify that:**

I am the property owner of record. I authorize the above listed agent to act on my behalf for the purposes of this application.

Property owner  
signature:

Robert A Latham

Printed name:

Robert A Latham

Date:

1/25/21

State of Ohio

County of

Clark

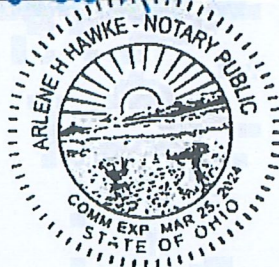
The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of January, 2021

by

Arlene Hawke

(name of person acknowledged).

(seal)



Arlene Hawke  
Notary Public Signature

My commission expires:

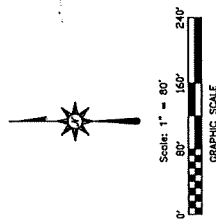
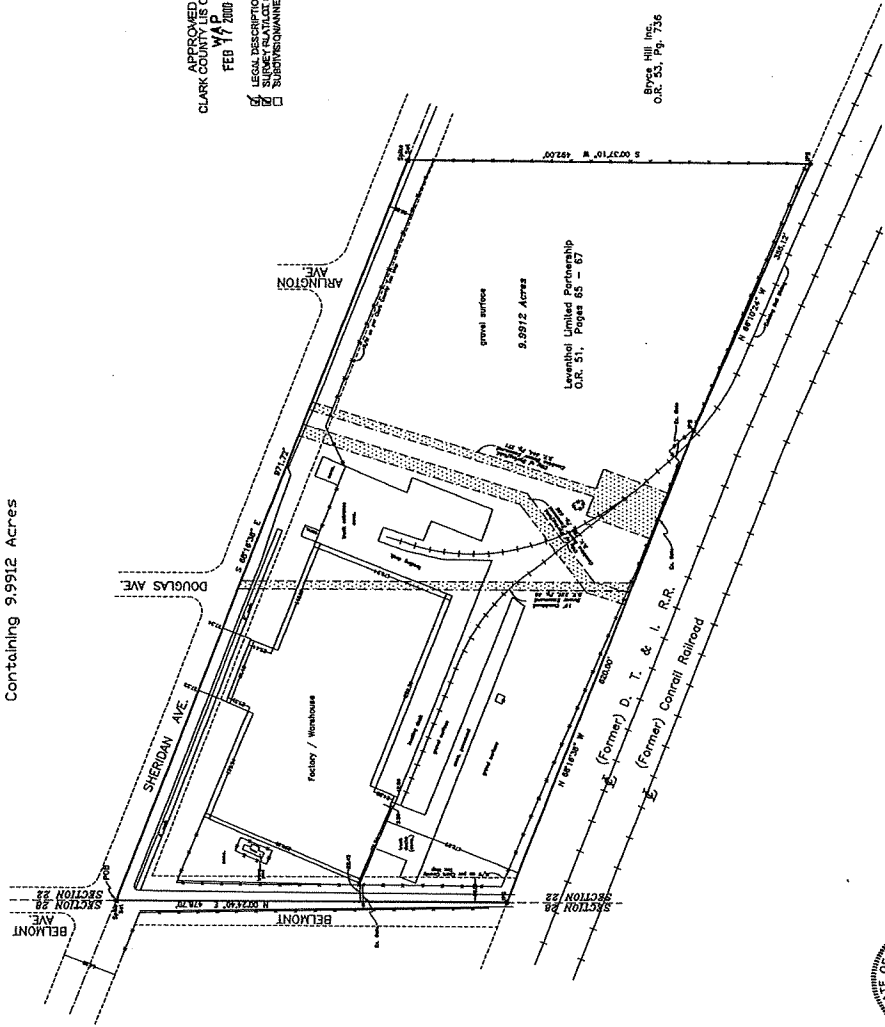
3/25/2024

SECTION 22, TOWN 5, RANGE 9, M.R.S.  
SURVEY RECORD VOLUME 167, PAGE 163  
OFFICIAL RECORD, PAGE

# Survey of Record Located in Southwest Quarter of Section 22, Town 5, Range 9, M.R.S. City of Springfield, Clark County, Ohio Containing 9.9912 Acres

APPROVED  
CLARK COUNTY LIS CENTER  
WAP  
FEB 17 2000  
LEGAL DESCRIPTION  
SURVEY PLAT/LOT SPLIT  
SUBDIVISION/RECREATION

Bryce Hill Inc.  
O.R. 51, Pg. 736



LEGEND  
▲ Spike Set  
◆ Iron Pin Set  
--- Existing Railroad  
--- Existing Fence

NOTE:  
A 30' right-of-way (80' total) is shown on the Clark County Plat for the City of Springfield, Ohio, located on the east side of Belmont Avenue and Belmont Avenue. No land has been conveyed or dedicated to the City of Springfield for road right-of-way adjacent to the right-of-way for Belmont Avenue. The 30' right-of-way for Belmont Avenue and Belmont Avenue is based on reservations set forth in a Kelly-Springfield Motor Truck Company by deed recorded in Volume 206, Page 510, of the Deed Records of Clark County, Ohio.

All iron pins are 3/4" rebar with identifying surveyor caps.  
All monuments found or set are in good condition unless otherwise noted.

The reference bearing for this survey is S 68°10'36" E, which is the bearing for the centerline of Belmont Avenue as determined by the survey of the Survey Records of Clark County, Ohio.



Prepared for:  
Chernusky, Hayman & Krass P.L.L.C.  
Suite 1100  
1355 N. Fairfield Road  
Dayton, Ohio 45402  
Prepared by:  
Linda A. Green & Associates  
1355 N. Fairfield Road  
Beverly, Ohio 45432

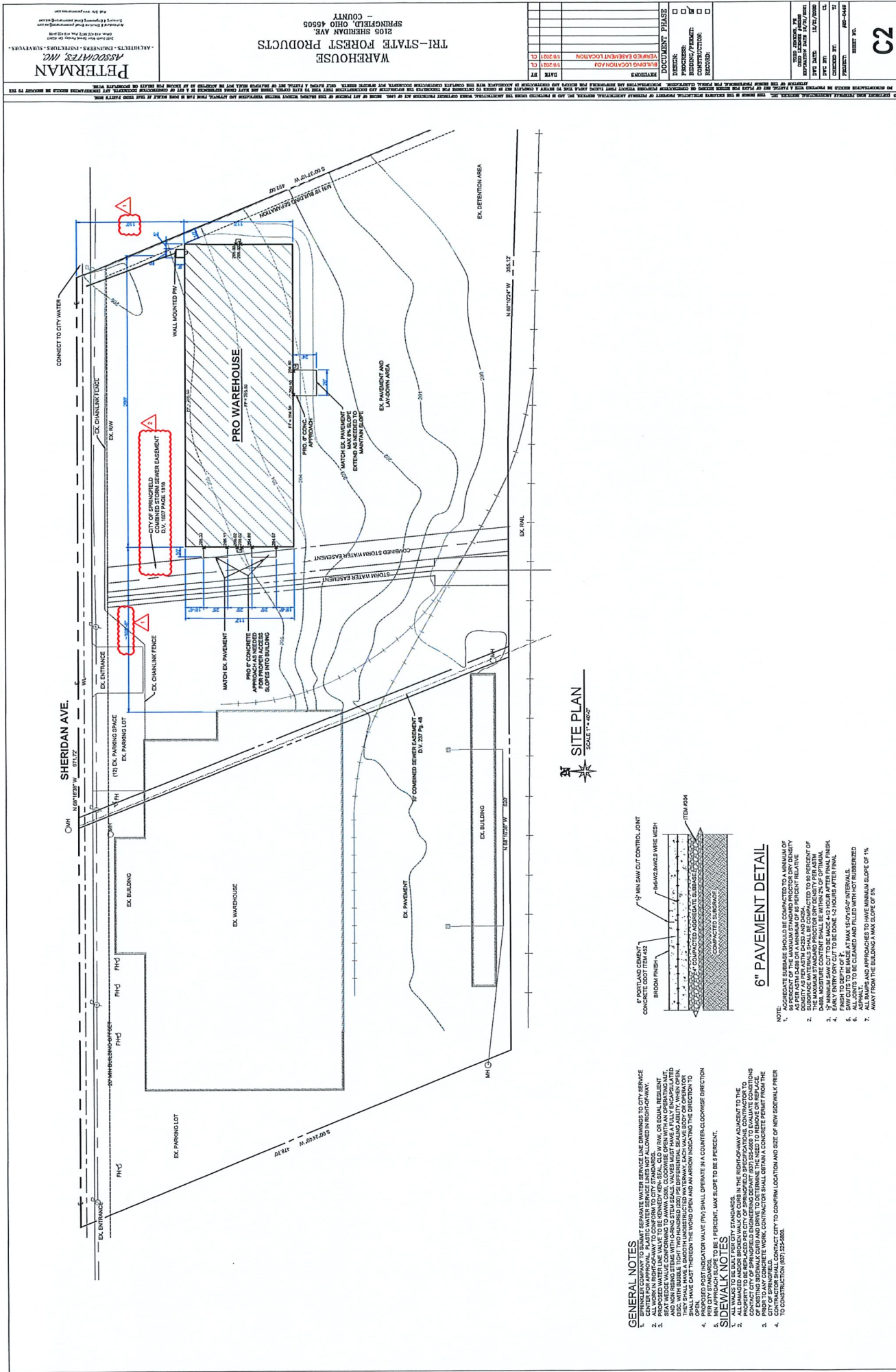
*Linda A. Green*  
Linda A. Green, M.S.  
Registered Professional Surveyor  
State of Ohio  
Date: 12/21/99



PICTURE 1) ON SHERIDAN AVENUE FACING EAST



PICTURE 2) ON SHERIDAN AVENUE FACING WEST



BERCAW JAMES ALLEN & MARY B	747 BASSWOOD DR	SPRINGFIELD, OH 45504
BERCAW JAMES ALLEN & MARY B	747 BASSWOOD DR	SPRINGFIELD, OH 45504
BRUGLER CAROLYN SUE	647 SOUTH DOUGLAS AVE	SPRINGFIELD, OH 45505
CHANEY ROSS A	2480 NEW LOVE RD	SOUTH CHARLESTON, OH 45368
CHAPMAN MINNIE E	2045 ORMOND AVE	COLUMBUS, OH 43224
COX ELI E C	106 N CLAIRMONT AVE	SPRINGFIELD, OH 45503
DEARTH RESOURCES INC	PO BOX 131	CATAWBA, OH 43010
DONALDSON WILLIAM S	2205 WINDSOR AVE	SPRINGFIELD, OH 45505
FRISBIE JOHN II & DEBORAH K LINDEMANN	649 S ARLINGTON AVE	SPRINGFIELD, OH 45505
GATTEN MICHAEL	707 S CLAIRMONT AVE	SPRINGFIELD, OH 45505
GLASS TIMOTHY JAMES & SHELLI A	719 S CLAIRMONT AVE	SPRINGFIELD, OH 45505
GRAND TRUNK WESTERN RAILROAD INC	DOWNTOWN STATION	MONTREAL QUEBEC CANADA
GWINN JOSEPH D	651 S ARLINGTON AVE	SPRINGFIELD, OH 45505
HAGENBUCH CHRISTOPHER J	652 S DOUGLAS AVE	SPRINGFIELD, OH 45505
HARTLEY THERESA A	1819 DEVON DR	SPRINGFIELD, OH 45503
HOUSING CONNECTION OF CLARK COUNTY INC	2422 SUNSET AVE	SPRINGFIELD, OH 45505
HOWARD HELEN L	1171 KENTON ST	SPRINGFIELD, OH 45505
HUFFMAN TREE SERVICE	1050 SYLVAN SHORES DR	SOUTH VIENNA, OH 45369
INTERTAPE POLYMER WOVEN USA INC	100 PARAMOUNT DR STE 300	SARASOTA, FL 34232
KEETON EUGENE & JOAN	648 S DOUGLAS AVE	SPRINGFIELD, OH 45505
KENCO ENTERPRISES INC	333 S BIRD RD	SPRINGFIELD, OH 45505
LEETH CARL E	4500 MIDDLE URBANA RD	SPRINGFIELD, OH 45503
MAINE FRED E & CATHERINE	660 N BUENA VISTA RD	SOUTH VIENNA, OH 45369
MANCINI ANTHONY S & GAYLA M	644 S DOUGLAS AVE	SPRINGFIELD, OH 45505
OWENS DUSTIN M & KATHY	511 E SPARROW RD	SPRINGFIELD, OH 45502
PMJOH LLC	341 S BIRD RD	SPRINGFIELD, OH 45505
RICE ERIC D	3645 CALHOUN DR	SPRINGFIELD, OH 45505
RITTENHOUSE LISA	651 S DOUGLAS AVE	SPRINGFIELD, OH 45505
SCHMITTAUER REGINA	701 S CLAIRMONT AVE	SPRINGFIELD, OH 45505
SPRINGFIELD METAL FINISHING INC	1108 ROBIN RD	SPRINGFIELD, OH 45503
STERLING JON D JR	3205 S URBANA LISBON RD	SOUTH CHARLESTON, OH 45368
TIER ONE DISTRIBUTION LLC	2105 SHERIDAN AVE	SPRINGFIELD, OH 45505
TRI STATE FOREST PRODUCTS INC	2105 SHERIDAN AVE	SPRINGFIELD, OH 45505
COLLIN LINK	5995 COUNTY ROAD 48	RUSHSVLVANIA, OH 43347

## **STAFF REPORT**

TO: Board of Zoning Appeals

DATE: February 10, 2021

PREPARED BY: Stephen Thompson

SUBJECT: Case #21-A-07

### **GENERAL INFORMATION:**

Applicant: Collin Link, 5995 County Road 48, Rushsylvania, OH 43347

Owner: Tier One Distribution LLC, 2105 Sheridan Ave., Springfield, OH 45505

Purpose: For a variance from Chapter 1158.02(a) to not install new trees along right of way

Location: 2105 Sheridan Ave

Size: 10 acres

Existing Land Use and Zoning: Manufacturing, zoned M-1

Surrounding Land Use and Zoning: North: Residential, RS-5  
East: Manufacturing, M-1  
South: Commercial, CI-1  
West: Manufacturing, M-1

Applicable Regulations: Chapter 1172.06 Variances  
Chapter 1158.02(a) Tree Requirements

File Date: January 25, 2021

### **BACKGROUND:**

The applicant seeks a variance to keep cargo containers on site that exceed 7% of the current building. There are multiple containers on site. The containers were placed without obtaining any permits.

Chapter 1135.27(e) states "Cargo containers exceeding 120 square feet are allowed in commercially zoned districts only as a conditional use. They may not be located in any setback required by zoning, nor be placed upon required parking, nor may their combined area exceed 7% of the floor area of the permanent structures on the site. They cannot be stacked."

### **ANALYSIS for Variance:**

The Board may grant a variance only where there exists a “practical difficulty” as defined by the courts in Ohio in established case law. The Ohio Supreme Court’s decision in Kisil v. City of Sandusky, (1984) 12 Ohio State 3d 30, is a land mark decision in establishing common law governing variances by distinguishing between “use” and “area variances.” Area variances involve an exception from such requirements as yard, lot, and height standards. The Supreme Court established that a practical difficulty must exist before an area variance can be granted.

Then subsequent to this case, in Duncan v. Village of Middlefield, (1986) 23 Ohio 3d 83, the Ohio Supreme Court more fully explained the practical difficulty standards. The factors to be considered and weighed in determining whether a property owner seeking a variance has encountered a practical difficulty in the use of his/her property include, but are not limited to:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

*Staff Comment: Yes. Trees could be planted closer to the new building.*

2. Whether the variance is substantial;

*Staff Comment: Yes.*

3. Whether the essential character of the neighborhood will be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

*Staff Comment: No.*

4. Whether the variance would adversely affect the delivery of government services (e.g., water, sewer);

*Staff Comment: No.*

5. Whether the property owner purchased the property with the knowledge of the zoning restrictions;

*Staff Comment: No.*

6. Whether the property owner’s predicament can be obviated through some method other than a variance; or

*Staff Comment: Yes. Trees could be planted closer to the new building.*

7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

*Staff Comment: Yes.*

#### **RETURNED REPORTS FROM STAFF:**

Service/Engineering Department: Recommend approval

Building Inspections: Recommend approval

Engineering Division: Recommend approval

Fire Department: Recommend approval

City Manager's Office: Recommend approval

**STAFF RECOMMENDATION:**

Approval of the variance.

**ATTACHMENTS:**

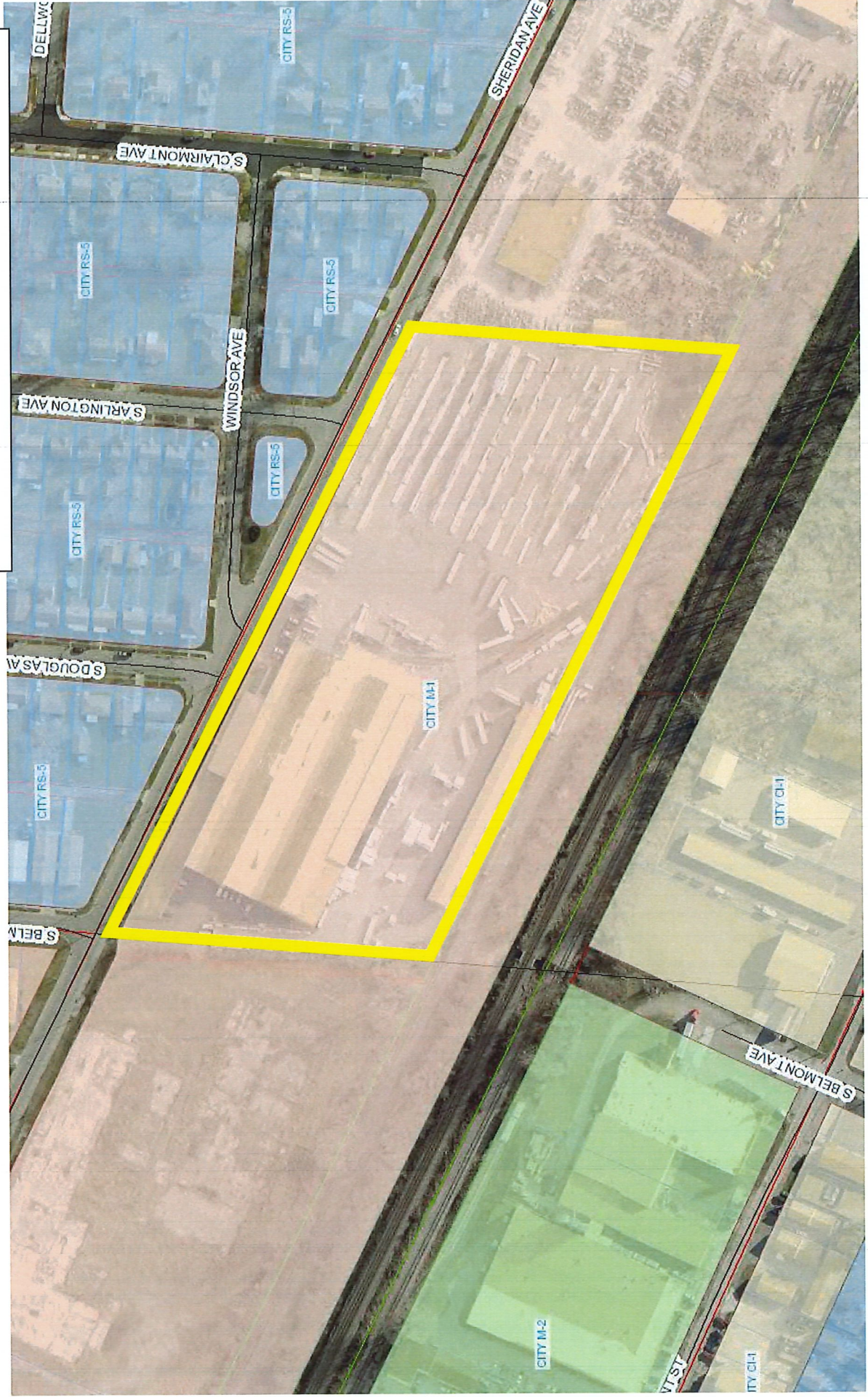
1. Vicinity and zoning map
2. Application

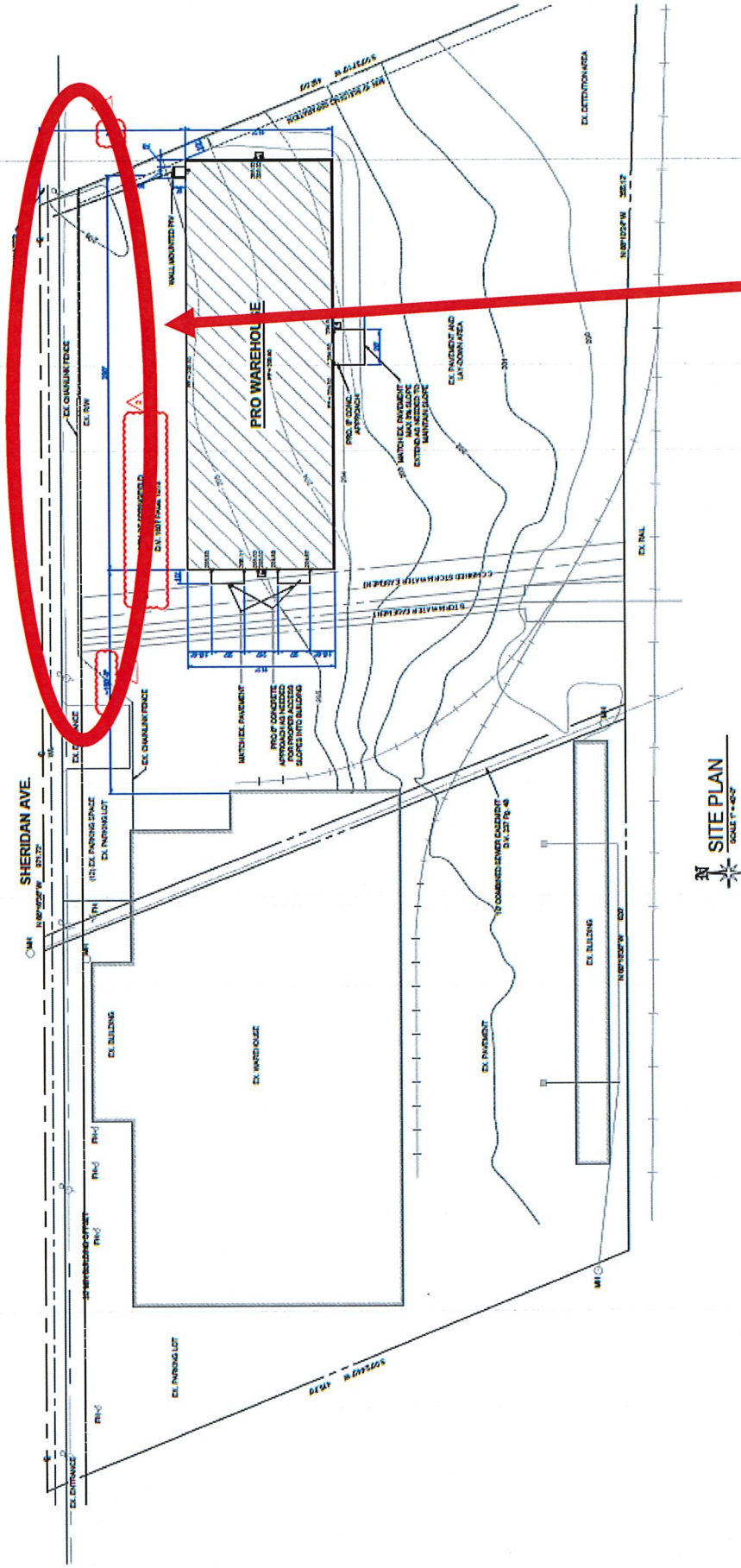
#21-A-07

2105 Sheridan Ave.



#21-A-07  
2105 Sheridan Ave.





Area new trees  
should be planted  
in front of new  
warehouse





**2021 BOARD OF ZONING APPEALS ATTENDANCE**

BOARD MEMBERS		JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
		20	17	15	19	17	21	19	16	20	18	15	20
Dori Gaier Reso. 6048	5-11-2019 5-11-2012	P											
Denise Williams Reso. 6059	8-03-2019 8-03-2022	P											
Matthew Ryan Reso. 5839	7-28-2020 8-11-2023	P											
Mark Brown Reso. 5869	1-20-2018 3-13-2021	P											
James Burkhardt Reso. 5880	4-01-2018 3-31-2021	A											
Rhonda Zimmers Reso. 5914	1-5-2019 1-06-2022	P											
Charles Harris Reso. 6069	11-26-2019 3-26-2022	P											

NOTE: The first date shown is the original appointment/reappointment date. The second date represents the most recent term's expiration.  
The City Commission Resolution is also listed.

# 2021 CITY COMMISSION CALENDAR

JANUARY 2021						
Su	M	Tu	W	Th	F	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

MARCH 2021						
Su	M	Tu	W	Th	F	Sa
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7	8	9	10	11	12	13
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28	29	30	31		Retreat	

MAY 2021						
Su	M	Tu	W	Th	F	Sa
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30	31				Election Day	

JULY 2021						
Su	M	Tu	W	Th	F	Sa
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SEPTEMBER 2021						
Su	M	Tu	W	Th	F	Sa
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26	27	28	29	30		

NOVEMBER 2021						
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21	22	23	24	25	26	27
28	29	30	Budget Mtgs	Election Day		

FEBRUARY 2021						
Su	M	Tu	W	Th	F	Sa
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28						

APRIL 2021						
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JUNE 2021						
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27	28	29	30			

AUGUST 2021						
Su	M	Tu	W	Th	F	Sa
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22	23	24	25	26	27	28
29	30	31				

OCTOBER 2021						
Su	M	Tu	W	Th	F	Sa
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24	25	26	27	28	29	30

DECEMBER 2021						
Su	M	Tu	W	Th	F	Sa
			1	2	3	4
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12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	